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ABSTRACT

The pressure of removal of all Indians from the eastern states and territories to the undeveloped West caused the Indians of the Five Civilized Tribes to re-frame their basic institutions, including their governments, in an attempt to conform with Anglo American ideas of what was "civilized". Both the Choctaws and Cherokees established governments under written constitutions before removal to Oklahoma from the East, and both wrote new instruments of government soon after their arrival in the West. Between 1826 and 1860 the Choctaws wrote seven constitutions; each succeeding constitution was an amendment and improvement over its predecessor. The final document in 1860 served as their constitution for 46 years, until the end of the existence of the Choctaw republic. The government thus created, although using the basic political forms of the Anglo American tradition, was successful in retaining Indian concepts, such as the conviction that a government was designed to serve the people's needs, not to oppress them. Great care was taken, by means of frequent elections, short terms, and a minimum of appointive offices, to ensure that the actions of the government and its officials were constantly subject to check by the voters. The Choctaw bill of rights was included as Article I in the main body of all their constitutions. Appended are the text of the Constitution of 1860, a listing of the chiefs of the Choctaw Nation from 1802 to 1977, and a 32-item bibliography on the government and laws of the Choctaw Nation. (NQ)

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THE SEVEN CONSTITUTIONS

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SEVEN CONSTITUTIONS

(Anumpa Vlhpisa Untuklo)

Government

of the

Choctaw Republic

1826-1906

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Durant, Oklahoma
1977

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Dedicated to

the

Students and Teachers

of the

Choctaw Bilingual Education Program

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INTRODUCTION

Among the founding fathers of the United States, both Benjamin Franklin and Thomas Jefferson were favorably impressed by the governmental practices of native American Indian nations. In 1754, arguing for the adoption of his "Plan of Union" at the Albany Congress, Franklin cited the Iroquois League as an excellent example of effective governmental confederation. Jefferson, author of the Declaration of Independence and the Virginia Bill of Rights, also acknowledged his debt to Indian teachers. In comparing the freedom of Indian society with the oppression of European society, Jefferson wrote:

> . . . crimes are very rare among them /̄ the Indians of Virginia 7; so much that were it made a question, whether no law, as among the savage Americans, or too much law, as among the civilized Europeans, submits man to the greatest evil, one who has seen both conditions of existence would pronounce it to be the last; and that the sheep are happier of themselves, than under the care of the wolves. It will be said, the great societies cannot exist without government. The savages, therefore, break them into small ones.

Jefferson was, of course, illustrating his basic political concept that the best government is that which governs least.

Both Jefferson and Franklin would have approved the results achieved by the Choctaw Nation when they established constitutional government in the 1800s. By coincidence, Jefferson died on July 4, 1826, the fiftieth anniversary of the adoption of the Declaration of Independence, and the Choctaws wrote their first constitution later in the same summer, on August 5, 1826. This is not to imply that the Choctaws in turn approved all of Jefferson's policies toward Indians. For example, the hated Indian removal policy had its beginning during his presidency. The Georgia Compact of 1802, engineered by President Jefferson, first established the responsibility of the Federal government for the removal of all Indians from the eastern states and territories to the undeveloped West. By 1826 the pressure for removal had caused the Indians of the Five Civilized Tribes to re-frame their basic institutions, including their governments, in an attempt to conform with Anglo-American ideas of what was "civilized." The result would be, the Indians hoped, that their white tormentors would allow them to remain on their ancestral lands in the East, because as "civilized" nations, rather than "barbarous" ones, the Indian commonwealths would pose no threat to the security and well-being of their white neighbors.

The whites, however, coveted the fertile homelands of the Indians and removal resulted in spite of all efforts made by the Indian nations to prevent it. But the changes made in the Indian societies at this time, compromises between their native Indian ways and those of the white man, helped the Five Civilized Tribes to survive in the West as successful political and social entities until the beginning of the twentieth century. Notable among these changes were those made in government. Both the Choctaws and Cherokees established governments under written constitutions, the former in August, 1826, and the latter in July of 1827, before removal to Oklahoma from the East, and both wrote new instruments of government soon after their arrival in the West.

This study deals with the efforts of the Choctaw Nation to establish an effective constitutional government. In the years between 1826 and 1860 the Choctaws wrote seven constitutions, each succeeding one an amendment and improvement over its predecessor. The final document in 1860 served as their constitution for forty-six years, until the end of the existence of the Choctaw republic.

The government thus created, although using the basic political forms of the Anglo-American tradition, was successful in retaining the Indian concepts that Franklin and Jefferson approved, especially the conviction that a government was designed to serve the needs of the people, not to oppress them. Great care was taken, by means of frequent elections, short terms, and a minimum of appointive offices, to ensure that the actions of the government and its officials were constantly subject to check by the voters. Jefferson especially would have approved the prominent location of the Choctaw bill of rights as Article I in the main body of all their constitutions; it was not an afterthought, such as the bill of rights in the United States Constitution where it is located as the first ten amendments.

Acknowledgments should be made to several co-workers who assisted in the preparation of this document by their encouragement and assistance. These include: Pierce Martin, director of the Choctaw Bilingual Education Program, who kept insisting that this project was worthy of completion and gave constant encouragement; Randy Jacob, co-director of CBEP, who read the manuscript with a critical eye and penetrating insight and then suggested changes for improvement of the final draft; Betty Jacob, professor of Choctaw, who patiently answered innumerable questions, especially many concerning the shades of meaning to be found in Choctaw words and phrases; C. Rose Carter, field coordinator for the CBEP, who read the manuscript and made helpful suggestions about proper usage of the English language; Claude Gilbert, Idabel, who read an early draft and suggested pertinent revisions; and Betty Keeton, who typed and then re-typed the same pages without making audible complaints.

James D. Morrison

Durant, Oklahoma
January, 1977

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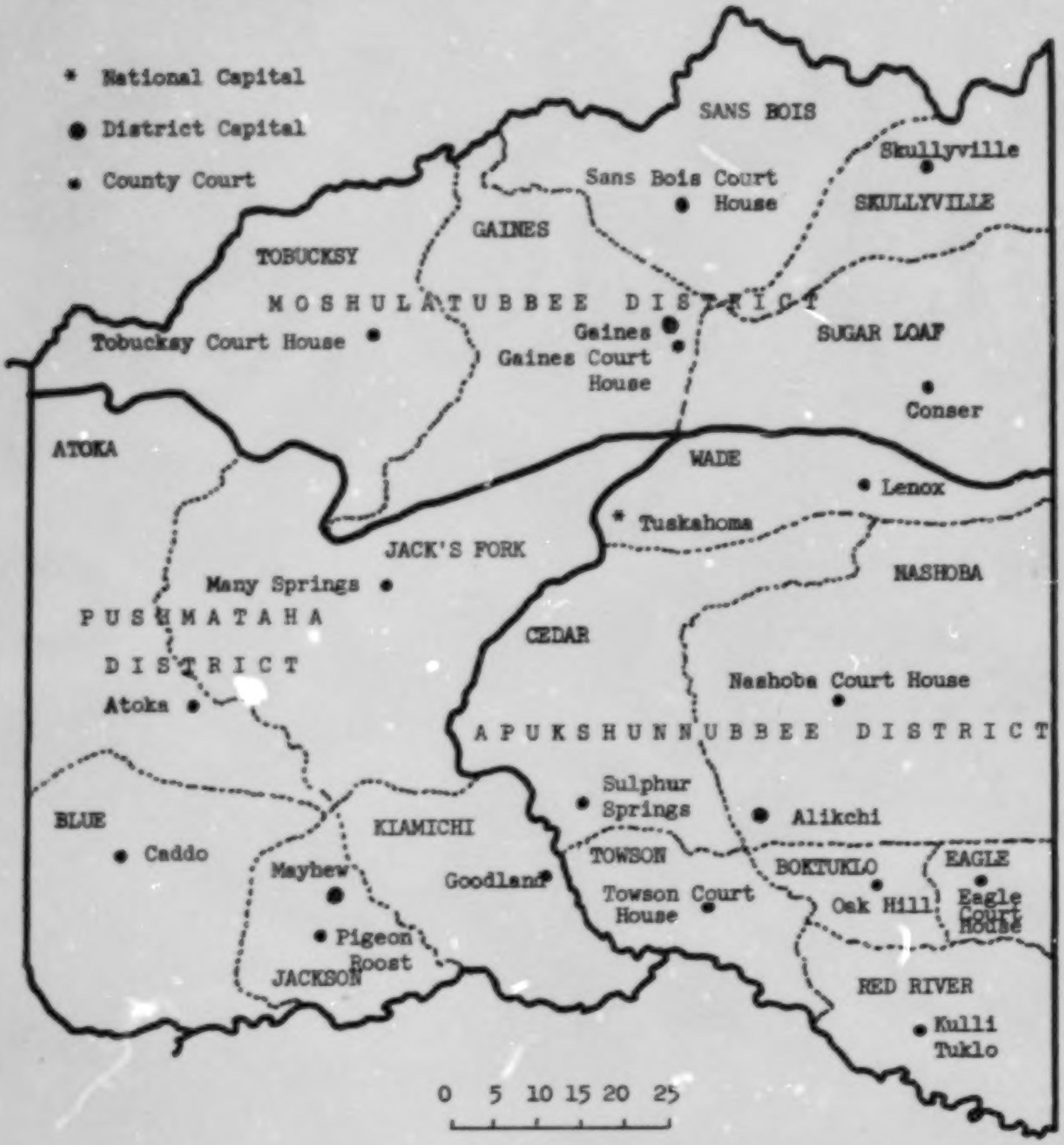
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● District Capital
• County Court
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Skullyville
Sans Bois Court House
SKULLYVILLE
GAINES
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Gaines Court House
SUGAR LOAF
Tobucksy Court House
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ATOKA
WADE
Lenox
Tuskahoma
JACK'S FORK
NASHOBA
Many Springs
PUSHMATAHA DISTRICT
CEDAR
Nashoba Court House
Atoka
APUKSHUNNUBBEE DISTRICT
Sulphur Springs
Alikchi
BLUE
KIAMICHI
Caddo
TOWSON
BOKTUKLO
EAGLE
Mayhew
Goodland
Towson Court House
Oak Hill
Eagle Court House
Pigeon Roost
JACKSON
RED RIVER
Kulli Tuklo
0 5 10 15 20 25

CHOCTAW NATION

(After 1850) **

**Pushmataha District: Blue County - originally Tiger Spring; re-named in 1854. Atoka County - originally Shappaway County; re-named in 1854. Jackson County - organized in 1886 from parts of the original four counties. Mushulatubbee District: Tobucksy County - organized in 1855 after Chickasaws and Choctaws separated. Apukshunnubbee District: No changes made in original county names and alinements.

CHOCTAW GOVERNMENT
IN THE NINETEENTH CENTURY

I

A Powerful Indefiniteness: Primitive Choctaw Society

The first written records concerning the Choctaws were those made by Hernando De Soto's chroniclers, the Gentleman of Elvas and Ranjel. In 1540 De Soto was welcomed hospitably into the Choctaw country by a chief named Tuskaloosa (*tushka lusa*, black warrior) "the suzerain of many territories, and of a numerous people." When the Spaniard demanded carriers and women, Tuskaloosa promised to collect them at Mabila, a fortified town on the Gulf coast probably located at or near the site of Mobile, Alabama. But the Choctaw chief actually assembled his warriors there, strengthened the fortifications of the town, and almost defeated De Soto in the fight which ensued. The Spanish rallied, however, trapped the Choctaws inside their fortifications, and set fire to the town. Nearly all the Indians were burned to death or killed as they tried to escape. After a time, De Soto moved on west and north to the Mississippi River, but not until he had given the Choctaws their first experience with the avarice and lust of the European invaders.

For the century and a half following De Soto's visitation, the Choctaws were relatively undisturbed by white encroachments. By 1700, however, the French had begun to establish themselves in the lower Mississippi valley--Biloxi in 1699; Mobile, 1702; and New Orleans, 1718--and French sources furnish the bulk of written information concerning the Choctaws during the eighteenth century. Because of their strategic location in the lower Mississippi valley, where French, Spanish, and English spheres of influence overlapped, the Choctaws were of interest to all three of these European powers. As a result, in addition to French sources, a few Spanish and English accounts exist concerning the Choctaws in the eighteenth century. The United States, of course, replaced the English influence after the American Revolution and the French or Spanish capacity to affect the future of the Choctaws was eliminated by the Louisiana Purchase in 1803 and the events which culminated in the so-called Florida Purchase of 1819.

Perhaps the most thorough American student of aboriginal Choctaw society has been John R. Swanton. An ethnologist, one of his major interests was the Indian nations of the Southeastern United States and the lower Mississippi valley, especially the Creeks, Chickasaws, and Choctaws. Swanton's research led him to the conclusion that, although probably more numerous than any of the tribes of the south central and southeastern United States in the eighteenth century, the Choctaws had stirred the curiosity of early European travelers, primarily French, very little. The student, therefore, has been left with a feeling of "powerful indefiniteness," to use Swanton's phrase, concerning primitive Choctaw society. Swanton's explanation for this lack of interest was expressed in part when he summarized:

> The fact of the matter is there were few customs observable among them sufficiently striking to attract the attention of European travelers--little 'copy stuff,' in other words, such as would interest officers of trading corporations or missionary societies or governmental functionaries back home, or such as could be used to circulate explorers' narratives. Seemingly their unique way of disposing of the dead was the only feature of their lives thought worthy of much publicity, and that is about all that is purely Choctaw which early writers vouchsafe us.

Swanton noted further that, although the Choctaw people had moved toward some "political centralization" as aborigines, their government had not become "spectacular or oppressive, and therefore interesting to white men." He also observed among the Choctaws a lack of:

> . . . complicated religious ceremonials to arrest the attention of the foreigner and the intelligence of the native, and it is the general testimony that the Choctaw were less inclined to display their superiority to other people by trying to kill them than is usual even in more civilized societies.

He stated that they raised a surplus of corn for trade with both Europeans and neighboring tribes, who did not compete well with the Choctaws economically; that they were not aggressive in war, but defended themselves against invaders with "dauntless bravery"; and finally that they:

> . . . enjoyed the enviable position of being 'just folks,' uncontaminated with the idea that they existed for the sake of political, religious, or military organization.

Among the early French accounts of the Choctaws examined by Dr. Swanton was a section of a "French Relation" (Relation de la Louisianne) which he discovered in the Edward E. Ayer collection of the Newberry Library, Chicago. This document, which he dated as about 1755 or earlier, Dr. Swanton translated into English for publication in 1918 as Volume V, Part 2, of the Memoirs of the American Anthropological Association. He describes this record concerning the 18th century Choctaw institutions, although more complete than most others of that century, as still a "relatively feeble" effort. "Feeble" perhaps, but more informative than most other sources on primitive Choctaw society.

The "Relation," which will be used to identify this document hereafter, noted that the "chaquetas" were divided into three cantons, or districts. These were the Eastern or "Ougoula annale" (*Okla hannali* or

Six Towns people); the Western or "Ougoula tanama" (*Okla tanampi* or hostile people); and the Southern or "Taboka" (*taboka* or noon people). Most later students have placed the Six Towns people in the Southern District, but Swanton believes that probably the Six Towns comprised a fourth district, observing that:

> . . . we must treat them [the number of Choctaw districts] as four in order to introduce any order into the several town classifications which have come down to us. It seems pretty clear that the Sixtown Indians lived in the southern part of the old Choctaw territory, were clearly differentiated from the rest, the separation being partly linguistic and partly cultural.

However that may be, most scholars have recognized only three Choctaw districts in parts of what are now Mississippi and Alabama, the northwest, northeast, and south sections of the nation. Boundaries were blurred and probably some border Choctaw villages for various reasons separated themselves from the sovereignty of one district chief to recognize that of another, or, of course, to flout any higher authority. We shall see that the power of any Choctaw ruler was likely to be quite limited at any period of Choctaw history.

The "Relation" mentioned a "grand chief" who had absolute power, but then severely qualified the statement by explaining that the chief's power was ineffective in actual practice. His authority was recognized only if he seriously exerted his right to it and even then, according to the "Relation," since:

> . . . disobedience is not punished among them, and they do not usually do what is recommended to them, except when they want to, it may be said that it is an ill-disciplined government.

Perhaps French observers during the eighteenth century did not comprehend fully the political organization of the Choctaws. The possibility exists that there was no "grand" chief for the whole nation, but only a head chief for each of the three or four districts. The writer of the "Relation" placed the residence of the "grand chief" at a town of the South district named "Coit chitou" with the explanation that, "This name means 'a great league'; they say that formerly this village was a great league in circuit. It is where the grand chief lives." Swanton follows the spelling of Du Roullet (1729) in mention of this village, using *Koweh chito* and noting that *koweh* or *koi* became the Choctaw word for an English "mile." Du Roullet also noted that this was the home of the *"Mi*^{n}*ko chito"* or "capitane." The latter title obviously derived from the Spanish. It may be that the "grand chief" at *Koweh chito* exercised whatever sovereignty he possessed over only the Central and South districts, combined into one jurisdiction by the time the Choctaws came under American control, and that the Northeast and Northwest districts each had their own "grand chiefs." If there were head chiefs for the entire Choctaw Nation during the 1700s, there was certainly no national capital, such as *Koweh Chito*. In 1748 the chief of *Holihta asha* (fort place)--*holihta kullo aiasha*--a town of the northeast district, was called the "head chief" of the Choctaws, and in 1787 Franchimastabe, a chief who resided in West Yazoo of the northwest district, was considered the chief of chiefs.

It is possible that during the eighteenth and early nineteenth centuries, both European and American observers were misled into perceiving one of the three district chiefs as *the* principal chief because he appeared to dominate the other two, by being more talkative, in conferences with white representatives. In the early 1800s, for instance, the Americans considered Pushmataha more forceful than either of his two fellow chiefs, Apukshunnubbee or Mushulatubbee, perhaps because he adapted himself more easily to the white man's company. But the truth may have been quite the contrary, when viewed through Choctaw eyes, and the dominant chief may actually have been Apukshunnubbee, the one who kept himself most aloof from white influence. At least one Mississippi historian, J. F. Claiborne, wrote:

> The celebrated chief, Puk-sha-nubbee, was famous as a warrior and as an orator. In his life time his influence, though circumscribed formally by district lines, was supreme over the nation.

His life span coincided closely with that of Pushmataha; their deaths occurred within a few weeks of each other, late in 1824. Whichever chief dominated, if either one, neither was ever officially designated the "principal" chief.

The "Relation" named forty-five villages or towns and the "number of men" estimated for each, the largest number for any town being four hundred and the smallest only thirty. The author of the "Relation" noted that many of these villages had the same name and admitted that:

> Besides these forty-five villages there are many little ones whose names I do not know, which have, however, their own chiefs like the big ones. But as these villages are very remote and very small, the French have scarcely any dealings with them, and have knowledge of them only when the savages speak of them themselves.

He further remarked that a few "Chaquetas" did not make villages at all, but were hunters who followed the herds of bison from which they secured meat for food. Practically all the Choctaws, however, lived in village communities and were agriculturists. Dr. Swanton, in Choctaw Social and

Ceremonial Life, listed 115 Choctaw towns by name and location but made no attempt to give their populations. According to the "Relation" each Choctaw town or village with a few exceptions had a chief and a war chief as governing officials. Swanton found a 1729 list of fifteen villages and the chiefs of each to whom a French official, Du Roullet, had presented gifts. In three of the towns eight, seven, and six chiefs and warriors respectively received presents; four chiefs received gifts in three towns respectively; three each in three towns; two each in five towns; and one chief in a single town.

The additional chiefs, besides the head chief and war chief, were usually lieutenants and assistants of the two leading mingoes in each village. "Mingo" was derived from *mi^{n}ko*, a Choctaw word usually translated by the white man as "chief." Probably "leader" would be a more realistic meaning, because "chief" indicated to the white man a leader with more power than that actually exercised by a *mi^{n}ko*. The "Relation" mentions a "Tichou-mingo"--from *tishu*, servant, and *mingo*--who served as aide-de-camp to the head chief of a village. The author of the "Relation" wrote that the *Tishu mingo* was:

> . . . like a major. It is he who arranges for all of the ceremonies, the feasts, and the dances. He acts as speaker for the chief, and makes the warriors and strangers smoke. These Tichou-mingo usually become village chiefs.

The war chief in each village was assisted by one or two lieutenants, identified in the "Relation" as "Tascamingoutchy." More modern Choctaw spelling would make this *Tuska-mingo-achi*, meaning the one or ones who spoke for, assisted, or represented the war chief.

The "Relation" divided the Choctaw population generally into four social classes. On top of the heap were the chiefs of various ranks, those in positions of authority in government. The next in rank were the "Atacoulitopa or beloved men (hommes de valleur)." These were undoubtedly the *hatak holitopa*, "men honorable," whom Cyrus Byington in his dictionary variously defined as gentlemen, or respected, rich, and/or worthy men. They formed a primitive Choctaw aristocracy. Those of the third class were called simply the "tasca" (*tuska* or *tushka*), meaning warriors. Finally, came the general public, but men only, whom the "Relation" identified as "atoc emittla," or "those who have not struck blows or have killed only a woman or a child." *Atoc emittla* probably derived from *hatak* (man) and perhaps *imatali*, defined as a "supporter" or "provider."

The situation of women and children in Choctaw society, however, was not as bad as the explanation of *atoc emittla* might suggest, since both enjoyed freedom from arbitrary oppression by the men in their daily lives. In truth, the women in primitive Choctaw society were the "keepers of life," while the men were the "keepers of death." Obviously, the ancient Choctaws realized the importance of women and gave them such powers that their position might be considered, not inferior, but superior. As "keepers of life" the women owned the homes and fields and had charge of rearing the children--actually, Choctaw children were allowed great freedom. In addition, ancestral lineage was determined through the mother's family. At least in everyday life, local Choctaw society was a matriarchy.

The "powerful indefiniteness," mentioned by Swanton as his state of mind after studying available sources on primitive Choctaw society, frustrates anyone who seeks an understanding of how Choctaw chiefs attained positions of leadership in prehistoric times. It is not clear that formal elections were ever held. Perhaps a mingo secured and maintained his position by sheer force of character in times of crisis when leadership was desperately needed. There is some indication that chiefs earned their positions by acceptable performance in lesser offices. For example, the "Relation" stated that a servant chief, a "Tichou-Mingo," usually moved into the position of village chief when a vacancy occurred in that office. These promotions could have been by common consent, but some formal election procedure surely must have been the practice. Israel Folsom, mixed-blood Choctaw minister, was quoted by H. B. Cushman in the History of the Choctaw, Chickasaw, and Natchez Indians as writing that the "tribal or national government was vested in the royal family," as if the office of head chief were hereditary. But Folsom did not elaborate on the statement and little real evidence has been uncovered elsewhere to support the idea that a chieftainship among the Choctaws was ever inherited. In fact, in the same paragraph in which he mentioned a "royal family," Israel Folsom also observed that the "chief's office was one merely of supremacy or leadership, and consequently there was no pay attached ot it . . . ."

One of Swanton's sources concerning early Choctaw government was Simpson Tubby, great-grandson of Mushulatubbee, chief of the Northeast District in the early 1800s. Swanton was not certain that Tubby's account pictured the prehistoric Choctaw government as it actually functioned, but he believed that Tubby told the truth as he had learned and remembered it. Tubby understood that:

> After the death of a head chief the vice-chief took his place until the people had a chance to assemble and elect a new one, and the vice-chief was not necessarily the one chosen. It was said that if the women wanted a certain chief he was almost certain

> of election . . . . If the head chief . . . died suddenly and the vice-chief could not be present at an assembly which had already been summoned, the wife of the deceased spoke for him, she having been kept informed by him of any business in hand. She wore a blue veil as a symbol of truth (red was a symbol of war or anything hostile) and when she rose to speak with this on, all kept quiet and listened attentively.

This supports both the idea that chiefs were elected and that the position of women among the Choctaws was invested with greater respect than the early French chroniclers had perceived it to be.

Alfred Wright, missionary sent to the Choctaws by the American Board of Commissioners for Foreign Missionary, was a competent observer of early Choctaw society. He explained in 1828 that the Choctaws:

> . . . were divided into two great families or clans, embracing the whole tribe, or nation. Intermarriages between those of the same clan were forbidden. The husband and wife must always be of different clans. The children are reckoned with the clan to which the wife belongs . . . . there is a division in every family, the father on one side, the mother and children on the other. And at their funeral solemnities and other public meetings, where they are arranged according to this order, the father is seen sitting at one fire, and the mother and children at another. As the mother takes her children into her own clan, the father has no control over them, but the woman's brothers are considered the natural guardians of the children.

Each of the two great clans, Wright believed, was divided into three subdivisions, so that perhaps six clans were identifiable. Even though all six were represented among the people of a village, each individual knew to which clan he belonged. Possibly clan membership was one of the qualifications considered when selecting a chief for a village or district, but certainly family relationships, force of character, charisma, and a demonstrated concern for the welfare of the people would all be important factors in the choice of leaders.

Most American observers of the Choctaws, who wrote in the nineteenth century concerning primitive Choctaw society, reinforce Swanton's impression of "powerful indefiniteness," especially in government. Swanton himself, for example, after listing 115 Choctaw towns, qualified the results of this bit of research with the following:

> My list of towns contains 115 entries, but the places designated were probably not all occupied at the same time and there is reason to suspect that, on moving to a new site, a Choctaw community sometimes changed its name. Moreover, certain of the names no doubt belonged to villages never permanently detached from some larger town. Making all due allowances, however, there were probably at one time from 40 to 50 small communities constituting small states, each with its chief, or war chief, two lieutenants of the war chief, or Taskaminkochi, and an assistant to or speaker for the town chief, the Tishu minko.

Just as no hard-and-fast list of primitive Choctaw communities is possible, neither can indisputable conclusions be drawn concerning primitive Choctaw government.

Was the prehistoric Choctaw government ever controlled by a single chief? If so, did he exercise real power? Did a ruling chief always reside in a single town which served him as a capital? As previously indicated, available evidence makes unqualified answers to these questions impossible, but strongly indicates that no truly "principal" chief ever played an effective role in primitive Choctaw government. Alfred Wright wrote from Mississippi in 1829 that:

> The Choctaw nation is divided into three districts, each of which has a principal chief elected by the people; and . . . each of these districts is divided into many smaller portions, over each of which a headman or captain presides, who is elected by the people of his clan.

Perhaps Wright had incomplete information from his Choctaw informants, but it is interesting that he should designate each district chief as a "principal chief." A Mississippi historian of the nineteenth century, J. F. H. Claiborne, had the same concept when he wrote:

> The Choctaws, from time immemorial, were divided into three beats or districts, each under charge of a head chief, who never exercised [his] authority, in important junctures, without the counsel and consent of the sages and warriors . . . .

Finally, it would appear that in early usage "principal chief" usually referred to an important chief rather than to a single executive. Two examples illustrate this possibility. An 1827 letter to Thomas L. McKenney, appointed by Secretary of War John C. Calhoun in 1824 as the first head of the newly organized Office (later Bureau) of Indian Affairs, was signed by eighteen leading Choctaws. The first six, including David Folsom and Greenwood Leflore, were together designated "Principal Chiefs." And in 1830, Article XV of the Treaty of Dancing Rabbit Creek referred to the district chiefs, Greenwood Leflore, Nitakechi, and Mushulatubbee, as the "three principal chiefs."

Further, the treaties made with the Choctaws by the United States, beginning with the Hopewell, South Carolina, treaty of January 3, 1786, never indicate any "principal" chief among the treaty signers. The preamble to the Hopewell document states that the "Commissioners Plenipotentiary of all the Choctaw Nation" were:

> . . . Yockonahoma, great Medal Chief of Soonacoha; Yockehoopie, leading Chief of Bugtoogoloo; Mingohoopie, leading chief of Hashoqua; Tobochoh, great Medal Chief of Congetoo; Pooshemastubie, Gorget Captain of Senayazo; and thirteen small Medal Chiefs of the first class, twelve Medal and Gorget Captains . . . .

If only one "great Medal Chief" had been named, a justifiable conjecture would be that he was the "grand chief" of the Choctaws at that time. But there were two. In 1801 two of sixteen Choctaws signing a treaty at Fort Adams were designated as "Mingo," but their signatures were not the first two listed, as surely would have been the case if they had been considered of greater importance than the other Choctaw signers. Again in 1802 at Fort Confederation no principal chief was designated: four Choctaw leaders signed on "behalf of the lower towns and Chicasawhay," two being designated "Mingo"; two signed for the "upper towns," neither a "Mingo"; and four signed for the "six towns and lower town," one a "Mingo." Three of eight Choctaws signers of an 1803 treaty were "Mingoes." The first three Choctaw signatures to the 1805 Treaty of Mount Dexter were grouped under the heading, "Great Medal Mingoes," while the remaining twenty names were listed under "Chiefs and warriors." By this date American officials must have discovered the fact that the Choctaw Nation was divided into three districts, each with a leading chief, and arranged for these three to sign first. From 1805 on, certainly, the first three Choctaw signatures on a treaty with the United States were those of the district chiefs.

A "medal" chief or mingo was an Indian leader to whom a special medal had been presented by a non-Indian government which desired to secure his goodwill. Before the American Revolution the three great colonial powers in North America (Spain, France, and England) had all practiced medal-giving to influential Indian leaders, and the United States government followed their example after securing independence from England. As late as 1820 the three Choctaw district chiefs, Pushmataha, Apukshunnubbee, and Mushulatubbee, were designated "Medal Mingoes" above their signatures on the Treaty of Doak's Stand. This was the last time the term appeared on a Choctaw treaty, however.

Beginning in 1805, not only were the three Choctaw district chiefs designated "medal mingoes," but they also received annual stipends from the United States government. The treaty of 1805 provided that the district chiefs, the "three great Medal Mingoes, Pukshunubbee-Mingo, Hoomastubbee, and Pooshamattaha," were to receive $500 each, "in consideration of past services in their nation," and also an annuity of $150 each "during their continuance in office . . . ." By 1820 the concept of "continuance in office" had changed to that of the lifetime of the chief receiving the subsidy. Two of the three "Medal Mingoes" who signed the Treaty of Doak's Stand in 1820 were "Puckshenubbee" and "Pooshawattaha [*sic*]," who had also signed the Treaty of Mount Dexter in 1805 and had remained in office during the intervening years. "Hoomastubbee," the third district chief in 1805, had been replaced by "Mushulatubbee" sometime before 1820, and Article XIV of the later treaty granted to the youngest chief the same annuity of $150 which his predecessor had received. The wording of Article XIV indicates that the annuities to the district chiefs were no longer to be paid only during "continuance in office" but during the lifetime of each chief. It read:

> Whereas the father [Hoomastubbee?] of the beloved Chief Mushulatubbee, of the Lower Towns, for and during his life, did receive from the United States the sum of one hundred and fifty dollars, annually; it is hereby stipulated, that his son and successor Mushulatubbee, shall annually be paid the same amount during his natural life, to commence from the ratification of this treaty.

Both Apukshunnubbee and Pushmataha died late in 1824 and their successors also were authorized to receive the same annuities as their predecessors. In 1825, Article X of a treaty made at Washington stated:

> The Chief Puck-she-nubbee . . . having died on his journey to see the President, and Robert Cole being recommended by the Delegation as his successor, it is hereby agreed, that the said Robert Cole shall reserve the medal which appertains to the office of Chief, and, also, an annuity from the United States, of one hundred and fifty dollars a year, during his natural life, as was received by his predecessor.

In 1826 Cole was replaced as chief of the Northwest District by Greenwood Leflore, but no evidence was found to determine whether or not Cole continued to draw the annuity after leaving office. Probably not, because Article XV of the Treaty of Dancing Rabbit Creek in 1830 provided that the "three principal chiefs" and their successors in office were each to be paid $250 "annually while they continue in their respective offices." Thus in 1830 the annuities again became payments made only during tenure in office rather than lifetime subsidies. Just when this subsidy to the chiefs was discontinued was not discovered, but as late as 1842 William Armstrong, United States Agent to the Choctaws, informed the Commissioner of Indian Affairs that the district chiefs each received "a salary from the United States of two hundred and fifty dollars each, per annum, by treaty stipulation." By 1860, as we shall see, the executive power of the Choctaw government was concentrated under one principal chief and the office of district chief became relatively unimportant. Available evidence does not suggest that after 1860 any personal annuities were paid by the government of the United States directly to any Choctaw leaders.

Between 1805 and 1816 no treaties were completed with the Choctaws by the United States, possibly because of American preoccupation with events preceding the War of 1812 and then the War itself. Then a series of treaties in 1816, 1820, 1825, and 1830 culminated in the relinquishment by the Choctaws as a nation of all their land east of the Mississippi. In each of those four treaties, the first three signers for the Indians were almost without exception the three district chiefs and with no indication that any one was superior to the other two. Upon removal to Oklahoma, three districts were set up and a constitution was written which, until 1857, provided a plural executive of three chiefs for the Choctaw government. For a while, between 1838 and 1855, four districts were recognized in order to provide one for the Chickasaws when they removed into the Choctaw country; but the Chickasaws found themselves consistently outvoted by three to one on matters they considered vital and re-established themselves as a separate political unit in 1855.

In primitive Choctaw government the officials were chiefs--*mi*^{n}*kos* or mingos--who were selected and/or confirmed by councils of warriors. Each chief was undoubtedly connected by blood with the leading *iksa* or clan of his village or district. Since the blood line was traced through the mother, there was no hereditary line of descent by which a son succeeded his father. Sometimes, however, a nephew might succeed an uncle. The Choctaw society was democratic, the powers of a chief at any level were limited, and no chief acted without the advice and consent of a council composed of leading men and warriors. Apparently councils were called by village chiefs only when difficult problems arose and possibly were not regularly scheduled events. Occasionally the chief of a district would call a council for consideration of a question of importance to all the villages in his jurisdiction. Even more rarely a national council was convened on call of the district chiefs acting together. Probably only external matters, "foreign affairs," and disputes between districts were considered when representatives of the whole nation met in general council. Decisions at such gatherings, which concerned relations with another nation, Indian or European, had to be approved by two of the three district chiefs. In actual practice, when a chief did not approve a majority decision, he and his district probably remained aloof from the action of the majority.

Within primitive Choctaw government at any level, village, district, or national, there was no separation of powers between executive, legislative, and judicial functions. The chiefs and the councils at one time or another acted in all three capacities. Of course, most problems with which modern governments grapple today--highways, social services, schools, regulation of business--simply did not exist. Protection of the individual and the family against crimes such as murder and theft was given not by police and a court system but through morally binding fixed customs and taboos whose origins have been lost in antiquity. For example, one who committed murder was punished, not by a court trial and a resulting sentence, but through the law of retaliation. The murderer was himself killed by a member of the family or clan of the murdered man. In some cases circumstances might dictate a decision by a council and certain chiefs, but in most instances such action was not needed and the matter was settled according to custom and tradition. Education of the young was also a family responsibility, chiefly by the mother for girls and by a brother of the mother for boys. Stealing seems to have been relatively a minor problem among the Choctaws themselves, but theft from non-Choctaws was condoned and even encouraged. Such concerns as marriage, divorce, adultery, incest, and sodomy were controlled by custom, and women more likely to be subject to regulation and punishment than men. In the case of adultery, for instance, a man's sexual act was not considered an offense against society, while that of the woman was often cruelly punished. To summarize, most matters now subject to governmental action were responsibilities of the family and clan as established by tradition.

Even though the Choctaw councils were not legislative bodies and the Choctaw people, like other primitive peoples, considered laws as universal customs, it should not be assumed that their council meetings were not of grave concern to them. Announcements for district or national councils were made by runners sent by the district chiefs to summon all the village chiefs to the conferences. Bundles of sticks carried by the runners were used to fix the day of the council meeting. Claiborne described the process as he understood it.

> The head chief of the district, or if it be a national council, the three chiefs, send out runners to the subordinate chiefs, giving to each runner a bundle of sticks, corresponding to the number of days to intervene between the time of despatching and the day of meeting. The runner, every morning, throws away a stick, until he reaches the chief to whom he has been sent. He then delivers the bundle, with the remainder of the sticks, and the sub-chief throws away one every morning, which brings him to the place appointed when the last stick has been thrown away.

Only the village and district chiefs composed the district and national councils, but the common people in the vicinity also attended to hear the orators and take part in the feasting, games, and dances which accompanied the deliberations.

A council met in the central square of the town designated, sometimes in a roofed enclosure. The participants sat on wooden benches covered with mats of woven cane or bark and many smoked pipes which were passed from one to the other. A district chief, or his speaker, usually opened a council meeting with an explanation as to why it was called and perhaps disclosed the views of the leading chiefs concerning matters to be considered. For either a district or national council, these would invariably concern peace, war, foreign relations, or judgments in disputes between villages and/or districts. Concerning Choctaw councils Angie Debo, in The Rise and Fall of the Choctaw Republic, summarized:

> The Councils were distinguished by the decorum with which they were conducted, and by the . . . eloquence of the native orators. The members were greatly influenced by the judgment of the Head Chiefs and guided by their recommendations, but the decision was democratic and in accord with the wishes of the assembly.

Claiborne wrote in the same vein:

> The Indians are very deliberate, and are slow in reaching conclusions . . . There is seldom any collision between the Chief and the subordinates. If the superior be a man wise in council and bold in war, the counsellors usually decide in consonance with his recommendations, and if he be a man of tact he generally recommends what he finds, from their debates, is most agreeable to them.

All of which could be true of successful political leaders in any time or place. It should be noted that this reluctance of a chief to make a decision until a matter had been thoroughly thrashed out and approved by a majority of a council representing his people was characteristic of most Indian societies, not just Choctaws.

II

A Period of Transition, 1800-1834

Increasing contacts with the whites led to modification of all phases of Indian society, including government. On the other hand, the white man's culture in America has also been greatly modified by unconscious absorption of many contributions from the various Indian cultures of the New World. Felix S. Cohen in "Americanizing the White Man," an essay published in the Spring, 1952, issue of The American Scholar, has made the best short summary of how Indian cultures have affected today's "American way of life." Cohen writes:

> Our historians . . . have seen America as only an imitation of Europe. They have not seen that the American Indians today, who are despite the prevailing myth of the vanishing Indian the most rapidly increasing race in our land, are still teaching America to solve perplexing problems of land use, education, government, and human relations, problems to which Europe never did find adequate answers.

No attempt will be made here to determine specific Choctaw contributions to our present way of life. Perhaps most are so intangible as to defy specific identification; but the reader should be aware of their existence as the modification of primitive Choctaw government by Anglo-American influences is studied.

The beginning of the transformation of primitive Choctaw culture because of contact with the white man cannot be definitely fixed, of course. But obviously lasting contacts with white Euro-American culture began when white trappers and traders, with surnames such as Durant, Leflore, Folsom, Jones, and Pitchlynn, settled in the Choctaw Nation during the eighteenth century. These representatives of an alien culture married Choctaw wives and established families whose names and blood lines have endured until now. Undoubtedly the Choctaws had begun to replace their primitive stone tools, weapons, and utensils with alien metal products before white intermarriage, but other phases of European civilization became resident among the Choctaws when whites actually began living with them as intermarried citizens. For example, there is a tradition that Pierre Durant, founder of the mixed-blood Choctaw family of that surname, introduced the first neat cattle among the Choctaws at some time in the eighteenth century. It is a fact that by the latter half of that century, cattle, horses, hogs, chickens, and other European imports had become part of the Choctaw way of life.

Thus the Choctaw culture was slowly--"insidiously" would be the word if you were a patriotic Choctaw full blood--and almost imperceptibly transformed by the white influence exerted from both within and without the Nation. The resistance of the Choctaws to external pressures for change was obviously weakened by the introduction of white blood inside the Nation through intermarriage. The demand for change led to the desire for education--the white man's education--for the mixed-blood children of white fathers and Choctaw mothers. This desire for education coincided with the rise of a world mission movement within many of the Protestant Christian churches in the United States, and the first Protestant missionaries--a Catholic mission effort had been begun and abandoned in the early eighteenth century--appeared in the Choctaw Nation in 1818 at the behest of a younger generation of mixed-blood Choctaws bearing such names as Folsom and Leflore and Pitchlynn. In the words of Angie Debo, their:

> . . . fathers had given them some schooling, and [they] felt that the only hope for their people lay in education and the adoption of civilized

> institutions; but there is no doubt that the Choctaw people as a whole were ready for this further acquisition of the white man's customs.

Led by Cyrus Kingsbury, the missionaries who arrived in 1818 were sent by the American Board of Commissioners for Foreign Missions, originally a joint effort of the Congregationalist, Presbyterian, and Dutch Reformed churches. Other Protestant missionaries soon began work among the Choctaws, particularly Methodists and Baptists, but not to any great extent until after removal of the Choctaw Nation from Mississippi to Oklahoma. The primary aim of the missionaries, of course, was propagation of the Gospel. To accomplish this goal many missionaries, especially those sent by the American Board, believed that literacy was an absolute necessity so that their converts could themselves determine the requirements for salvation by reading the Christian Bible. Since the Choctaw language was oral only, one phase of the missionary effort in addition to preaching became that of putting the Choctaw language into written form. A second phase was the establishment of schools in which reading, writing and other subjects were taught. Thus the Indians would not only learn to read the scriptures, but would also become "civilized" and able to maintain an economic system which would support the necessary schools and churches in a Christian society.

This goal of a literate people was soon accepted by the Choctaw leaders, especially those of mixed blood, and a school became an essential part of each mission station. At the same time that they were establishing schools, the missionaries worked toward making Choctaw a written language. Instead of inventing a syllabary, as Sequoyah had done for the Cherokees, the missionaries adapted the English alphabet to portray the sounds and words of the Choctaw tongue. By 1825 Alfred Wright and

Cyrus Byington, with the help of "Captain David Folsom, Interpreter," had completed a spelling book in the Choctaw language. Printed in Cincinnati "for the Missionary Society" and the first known volume published in Choctaw, it also included an English translation. Both Wright and Byington were New England scholars who remained with the Choctaws all their lives and spent countless hours translating English into Choctaw, especially the Christian Bible. Byington also completed a Choctaw grammar and a dictionary. Other missionaries and other Choctaw interpreters assisted Wright and Byington, of course. For example, Wright and Byington prepared a Chahta Uba Isht Taloa Holisso (Choctaw Hymn Book) for use in divine worship. The original volume of eighty-four pages was printed in Boston in 1829 and continued to be published in larger editions during the remainder of the century. The last edition examined by the writer was printed by the John Knox Press, sponsored by the Presbyterian Church in the United States, and contained 252 pages. Many of the hymns in this later edition were initialled by their translators and indicate that at least four missionaries and several Choctaw mixed bloods were involved. Some of the hymns were not initialed, however, and perhaps those were the first to be translated by Wright, Byington, and Folsom in 1829.

The impact of the white man's culture, as exerted through the Protestant missionary and other influences, also caused the Choctaws to alter their legal and constitutional practices and to use the newly-written language to spell out the legal details of the changes--reforms, the Christian missionaries called them--already in progress. In 1822 a chief--"Aboha Kullo Humma" of the Six Towns District, according to H. B. Cushman in his History of the Choctaw, Chickasaw, and Natchez Indians--wrote to Cyrus Kingsbury that his district had passed laws designed to control the whiskey traffic, prevent infanticide and adultery, and cut down the number of robberies, especially of livestock. Of the last, the chief reported:

> The Choctaws formerly stole hogs and cattle, and killed and ate them. I have organized a company of faithful warriors to take every man who steals, and tie him to a tree, and give him thirty-nine lashes.

Later laws, when printed, always added that the lashes should be applied to "his or her bare back"; the lashes were customarily applied with hickory or dogwood switches. Among other crimes whose control at this time became a governmental rather than a family responsibility were witchcraft and homicide. For the latter, capital punishment came to be applied, either by shooting or hanging. According to Cushman, the Choctaws believed that the soul of one who died by hanging was accursed, that his spirit was never permitted to "join his people in the happy hunting grounds, but . . . must forever haunt the place where he was hung." As one result of the white man's growing influence in the nineteenth century, death by hanging came to be included in the Choctaw penal code as the punishment reserved for those convicted of "unnatural intercourse" and a "second offense of horse-stealing." For other capital crimes, such as murder or treason, death by shooting remained the approved method.

Aboha Kullo Humma's "company of faithful warriors" was an innovation, since previously a regular police force with power to coerce had been unknown to Choctaw government. Officially called the "Light-Horse," such officers were first authorized by Article 13 of the Treaty of Doak's Stand, signed on October 18, 1820, which provided:

> To enable the Mingoes, Chiefs, and Head Men of the Choctaw nation, to raise and organize a corps of Light-Horse, consisting of ten in each District, so that good order may be maintained, and that all men, both white and red, may be compelled to pay their just debts, it is stipulated and agreed, that the sum of two hundred dollars shall be appropriated by the United States, for each district, annually, and placed in the hands of the agent, to pay the expenses incurred in raising and establishing said corps; which is to act as executive officers, in maintaining good order, and compelling bad men to remove from the nation, who are not authorized to live in it by a regular permit from the agent.

This treaty was negotiated for the United States by Andrew Jackson and Thomas Hinds, the first two signers of the pact. Of 103 Choctaw signers, only four were able to write their names in English; the other ninety-nine made their X marks. The leading signers for the Choctaws, the "Medal Mingoes," were the three District Chiefs, "Puckshenubbee" (Apukshunnubbee), "Pooshawattaha" (Pushmataha), and "Mushulatubbee." All three signed with X marks. The remaining one hundred Choctaw signers were grouped together under the heading of "chiefs and warriors." One can only speculate as to the role played by Andrew Jackson in the establishment of this first Choctaw police force. Lighthorsemen continued to be used as tribal law enforcement officers until the dissolution of the Choctaw Nation as an effective political entity in 1906.

In the beginning, the power of the lighthorsemen was very great, since they functioned not only to enforce the laws, but also acted as judge and jury. At least this was the conviction of H. B. Cushman, when he wrote:

> Soon after the missionaries were established among them, a company of armed and mounted police, called 'light horsemen,' [was] organized for each district. They were continually riding over the country settling all difficulties that arose among parties or individuals, and arresting all violators of the law. The

> custom of leaving the murderer to be disposed of as the relatives of the deceased saw proper, was then set aside, and the right of trial by the light horse who acted in a threefold capacity--sheriff, judge and jury [--] was awarded to all offenders.

Cushman reported that little escaped the "eagle eyes" of the lighthorsemen, who became "a terror" to white peddlers of whiskey among the Indians. The best known leader of the lighthorsemen during the early 1820s was Peter P. Pitchlynn, who served for a time in 1824 as leader of the force for the northeast district. He was only eighteen years of age at the time.

Before enough years had passed to allow the freewheeling lighthorsemen to entrench themselves firmly as an oppressive state police force, however, the Choctaw Nation began to establish a constitutional government which safeguarded the individual rights of citizens from whimsical police action. According to Lester Hargrett, bibliographer of American Indian laws and constitutions, "organized government" began for the Choctaws on August 5, 1826, when a council composed of the chiefs and representatives of each of the three Choctaw districts adopted a written constitution for their nation. The growing influence of white and mixed-blood citizens of the Choctaw Nation is indicated by the number of signers of the 1826 constitution who had European names. Of the eighty persons, including two witnesses, who approved the document, twenty-five bore names such as Pitchlynn, Perry, Folsom, Pickens, Durant, Garland, Wade, and Kincaid. Even more significant was the fact that two of the three district chiefs in 1826, whose names led all the rest, were David Folsom of the Northeast District and Greenwood Leflore of the Northwest District, both of mixed blood. The first written law was adopted on the same day to appropriate funds for a national council house; this was built south of the present city of Starkville on the Noxubbee River near the Noxubbee County line. In 1940 Hargrett purchased the unpublished original manuscripts of both the 1826 constitution and the first written laws from Sophia Pitchlynn, daughter of Peter P. Pitchlynn, the mixed-blood Choctaw who had served as secretary of the 1826 council. The documents were bound in two small volumes which also contained the acts of the Council for the Northeast District enacted in 1827 and 1828.

The 1826 constitution provided for an annual general council consisting of representatives from each of the three districts and a plural executive, composed of the three district chiefs, each elected by his district for a four-year term. The 1826 council, in addition to authorizing construction of a national council house, also enacted laws which provided for inheritance through the father's side of the family, discouraged polygamy, defined the legal enclosure of fields, prohibited trespassing, and imposed severe punishment for any Choctaw who might agree to cede land to the United States for a bribe. This last enactment was designed, of course, to resist the increasing efforts of the United States at this time to promote Choctaw removal. In fact, one motivation for the Choctaw leaders in their efforts to establish constitutional government at this time was the hope that by so doing the pressure for removal might be eased as the Indian nation moved toward becoming more "civilized" in the eyes of the white men. The laws passed by the Council in 1827, 1828, and 1829 combined with those of 1826, gave the Choctaws their first written code. In addition to the laws listed above, statutes were enacted concerning legal wills and estates and providing punishment for such crimes as murder and infanticide, theft, and perjury.

But movement toward constitutional government under written laws which attempted to change or prohibit so many of the old Choctaw customs was halted by the pressure for their removal west of the Mississippi River. The people of Mississippi were pleased by the election of Andrew Jackson to the presidency in 1828, believing that this meant a quick solution to their Indian problem. Approximately 23,400 Indians, chiefly Choctaws and Chickasaws, still resided inside the state boundaries on some of the richest soil in the world. If these Indians could be removed, some very fine cotton land would become available for cultivation by white slaveholders and Mississippi wealth would be increased manyfold. So eager were Mississippians for removal that they took the first steps toward elimination of the Choctaw and Chickasaw nations from their midst even before Jackson's inauguration on March 4, 1829. On February 4, 1829, the Mississippi legislature enacted a law "to extend legal process into that part of the state now occupied by the Chickasaw and Choctaw tribes of Indians." This act simply increased the size of the counties bordering the Indian nations to bring the Indian country under the jurisdiction of the state government.

The Choctaw people, naturally, were greatly disturbed and factions developed among them concerning the best procedure to follow in order to preserve themselves as a nation on their ancestral lands in Mississippi. For several months after passage of the Mississippi law on February 4, 1829, no effective measures were taken by Mississippi authorities to take control of the Indian country. The Mississippians were heartened, however, by President Jackson's statement, in his first annual message to Congress on December 8, 1829, concerning his Indian policy. This had not been spelled out previously. Jackson, in effect, announced that in order to survive as nations the Indians must remove west of the Mississippi; if they remained in the east, they would become subject to the laws of the several states and become "merged in the mass of [the] population." He thus set in motion the Congressional procedure which led to passage of the Indian Removal Act, signed into law by the President on June 30, 1830.

Mississippi did not await the passage of a Federal law, but began to act against the Indians soon after Jackson's message in December. On January 19, 1830, the Mississippi Legislature, in the words of Arthur H. DeRosier, "promptly took advantage of Jackson's 'states rights' invitation" and passed a law extending the government of the state "over the persons and property of the Indians resident within its limits" and repealing all of the special "rights, privileges, immunities, and franchises of the Indians." In other words, as a sovereign state Mississippi granted state citizenship to individual Indians after delcaring their tribal governments abolished. A maximum penalty of a one thousand dollar fine and twelve months in prison threatened any Indian who dared to defy Mississippi by exercising the "office of chief, mingo, head man, or other post of power established by the tribal statutes, ordinances, or customs of the said Indians." In the face of this and other threats, it is understandable that the Choctaw Nation bowed to the inevitable and signed a removal treaty at Dancing Rabbit Creek on September 27, 1830.

It is also understandable that as a result of the popular unrest, anxiety, and fear for their future which developed among the Choctaws as a result of the events of 1829 and 1830 that they divided into factions, mixed-blood and full-blood, and progress in all areas, including law and government, ceased until after removal was completed. By the spring of 1834 approximately 12,500 Choctaws, about two thirds of the Nation, were in the west. Most of those still in Mississippi were eventually removed, but as long as they stayed in the east, they were citizens of Mississippi. By 1834, the migrants in the west, a comfortable majority of the Choctaws, moved to install a new government for themselves and their descendants. In spite of the bitterness engendered, especially between mixed bloods and full bloods, since the latter held the former responsible for the loss of their homeland in the east, a stable and prosperous society and government were soon brought into being.

According to Grant Foreman in his classic Indian Removal, as early as 1832 at a meeting near Fort Towson with the newly-appointed agent to the Choctaws, Major Francis W. Armstrong, several Indian leaders, among them Nitakechi, the nephew of Pushmataha and chief of his district, had voiced their desire to reorganize the Choctaw government. Major Armstrong advised them at the time that, since only one fourth of their people had arrived, they should wait until a majority were on the scene. The United States, he told the Choctaws, would not approve the acts of a minority government. In the meantime, until 1834, Armstrong was the actual ruler of the Choctaw people in the west. He endeavored to drive fugitives from justice out of the Choctaw country, to see that newly arrived immigrants from Mississippi received needed food and supplies, and to prevent anarchy and disorder from prevailing in the Choctaw country. For example, in 1832 when two people were killed as witches, following the old Choctaw tradition, Major Armstrong, according to Grant Foreman, then:

> . . . convened the chiefs in council and threatened the penalty of death upon any one instrumental in [witch killing] in the future, and the lash for any one making a charge of witchcraft against a member of the tribe.

The killing of persons as witches had been a growing concern of the Protestant missionaries from the beginning of their work among the Choctaws. The missionary opposition first bore fruit in September, 1829, when the Choctaw council passed a resolution which read:

> We do hereby resolve, in general council of the north, east, and southern districts, that, in future, all persons who shall be accused of being a wizzard or witch, shall be tried before the chiefs and committees, or by any four captains; and if they be found guilty, they shall be punished at the discretion of the courts.

Presumably, then, during this period Major Armstrong did not act so arbitrarily, at least in this case, as to require of the Choctaws action which their own government might not itself have taken under normal circumstances.

III

Firm Foundations: the Constitutions of 1834 and 1838

By the spring of 1834, as already noted, a sufficient number of the Choctaw people had arrived in the west to justify re-establishment of constitutional government for the Nation. In fact, as early as December, 1833, Agent Francis Armstrong had advised the Choctaws that the removal would be declared officially complete within a few months, at which time they needed to resume full control of their internal affairs. On June 3, 1834, representatives from the three Choctaw districts met at Turnbull's Stand on the Kiamichi River and wrote a constitution. This site was soon named Nanih Waya, after the sacred Choctaw ceremonial mound in Mississippi. In later years the existing red brick council house, used as the Choctaw capitol from 1883 until the end of their national sovereignty in 1906, was constructed in the vicinity at a site named Tuskahoma. By whatever name--Turnbull's Stand, Nanih Waya, or Tuskahoma--this site was almost in the geographic center of the Choctaw Nation proper. Located on the Kiamichi River, dividing line between Apukshunnubbee and Pushmataha Districts, it was only a few miles south of the Winding Stair mountain, part of the ridge which marked the south line of Mushulatubbee District. Thus the distances to Nanih Waya, or Tuskahoma, from the far corners of the Nation were almost the same, at least as the crow flies. Rough figures indicate the following distances from Tuskahoma to: (1) the northeast corner near Fort Smith as seventy miles; (2) the northwest corner near Allen as eighty miles; (3) the southeast corner near Tom as eighty-five miles; and (4) the southwest corner near Calera as ninety miles. Travelers from any of these directions must cross rough, wooded terrain in order to reach the site of the capital.

A leading figure in writing the Choctaw Constitution of 1834, the first such document prepared on the soil of present-day Oklahoma, was Peter P. Pitchlynn. Although only twenty years old at the time, he had served as secretary of the Council which framed the Constitution of 1826 and thus was probably better informed on constitutions than most Choctaws in the 1834 Council. Pitchlynn and his fellow delegates had studied the the constitutions of Mississippi and other American states, as well as that of the United States, in preparing to draft the 1834 document, and the source of such phrases as "We the people" and "In order to establish justice, insure tranquility, promote the general welfare, and secure to ourselves and our posterity the right of life, liberty and property" is obvious. The 1834 constitution, like the 1826 document, continued the plural executive arrangement of three district chiefs, who were elected for four-year terms and with an eight-year maximum tenure at "any one time." The chiefs served as ex officio members of the one-house council of twenty-seven members elected from the three districts, but any two chiefs could veto an act of the General Council and the veto, in turn, could be overridden by a two-thirds vote of the Council.

The first article of this document was a "Declaration of Rights" which guaranteed to Choctaw citizens freedom of conscience and religion, the right to bear arms "in defence of himself and his country," trial by jury, and security from seizure of property by the government without "just compensation." The right to vote was given to every Choctaw male aged sixteen or older and included "all white men having Choctaw families who shall have resided in the nation twelve months . . . ." This emphasis on a bill of rights, designed to protect the average citizen from arbitrary acts of a tyrannical government, by making it Article I of the main body of the organic law illustrates the Choctaw concern for democracy in government. By contrast, the Bill of Rights of the United States Constitution, is found, not in the original articles, but as the first ten amendments, an afterthought rather than a prime consideration for the founding fathers of the government of the United States. The emphasis on restriction of the powers of the central government was continued by Article II, which divided the "powers of government" into "three distinct departments," legislative, executive, and judicial, and specified that:

> No person or collection of persons, being one of those departments, shall exercise any power . . . belonging to /‾either of the‾/ others, except in the /‾instances‾/ here in after expressly directed or permitted by the general Council.

This pattern was usually followed in succeeding Choctaw constitutions: Article I was a bill of rights and Article II dealt with the separation of powers. Articles III and IV established the legislative and executive departments, previously discussed, and Article V provided for an embryo judicial branch of the government, the first time a system of courts, separate from the executive and legislative branches, appeared in any Choctaw scheme of government. Each District Chief was authorized to establish "three or more . . . courts," each to be composed of "three persons who shall receive their appointments from the District Chief" and hold office "during good behaviour." Article VI defined the boundaries of the three districts, Article VII dealt with impeachment, and Article VIII was a catchall entitled "General Provisions."

The convention which wrote this constitution in June, 1834, felt constrained to enact some statute laws also. The justification for this was stated, slightly edited, in these words:

> Since the convention deems it absolutely necessary to have . . . a few temporary enactments or laws to be in force until the first sessions of the general council under our new Constitution, . . . we do hereby enact the following laws to be subject to be reconsidered by the general Council.

Legislation was then enacted which restored the original laws passed before removal from Mississippi and concerned witchcraft, importation of whiskey, infanticide, theft, and inheritance. These were confirmed by the General Council which met in October after elections in July.

The available evidence indicates that this government of 1834 never really became effective throughout the Choctaw Nation. A curious note at the bottom of the last page of the rough manuscript draft of the 1834 constitution found in the Pitchlynn Papers in the Gilcrease Museum reads:

> P. S. This Constitution was hached /‾sic_7 up by party spirit. It is however one which I am satisfied with.

The handwriting of the "P. S." appears to be different from that of the manuscript proper. Perhaps the note expressed Peter P. Pitchlynn's sentiment and his willingness to go along with any provisions of the document which displeased him. Events were in progress which led to the settlement of the Chickasaws in the west as a fourth district of the Choctaw Nation and the constitution writers of 1834 knew that a new document would soon be necessary to accommodate the new arrivals. Otherwise it is difficult to explain Section 9, Article II, of the 1834 Constitution which stated that:

> We do declare that there shall be no alteration made to this constitution until the year one thousand eight hundred and thirty eight and that any laws which may be passed or adopted contrary to the provisions of this constitution shall be null and void.

Few records have been discovered concerning the functioning of the court system authorized by the Constitution of 1834. Grant Foreman in The Five Civilized Tribes mentions a murder trial held in the "Red River District." In 1834 this was designated the "Oklafullayah" District; the 1838 Constitution re-named it the "Puckshanubbee" (Apukshunnubbee) District, the title which it bore thereafter. According to Foreman, in September of 1834 a slave named Bob, property of one John Caffery, was tried for the murder of a woman who was the property of John L. Price, a citizen of the Choctaw Nation. As the 1834 Constitution provided, there were three presiding judges, George W. Harkins, Israel Folsom, and Silas L. Fisher, and a jury of twenty-four Choctaw citizens to make the decision since it was a "case of life and death." The power of the United States Agent, Francis W. Armstrong, was illustrated after the jury, by a two-thirds vote, found Bob guilty and sentenced him to death. Since neither Bob nor John Caffery, his owner, were Choctaw citizens, Armstrong refused to let Choctaw justice take its course and ordered Bob to be surrendered to the United States Army by the Choctaws until Washington could be consulted. The final disposition of the matter was not learned, but it illustrates a continuing problem for the Choctaw Nation during the nineteenth century, that of conflict caused by interference of the United States in law enforcement when American citizens were involved.

The question of success or failure of the Choctaw government established in 1834 soon became moot. On January 17, 1837, at Doaksville near Fort Towson, the Choctaws signed an agreement with Chickasaws by which the latter, in return for $530,000.00, were allowed to move into the Choctaw Nation and settle in a fourth district to the west of the three

Choctaw districts. In order to include the Chickasaw people in the Choctaw government a new constitution was written. Perhaps "new" is the wrong adjective, since the document that resulted in 1838 differed in few respects from that of 1834 except for some additions and clarifications. The 1838 document was framed by "our representatives, assembled in convention at Nunihwaya on Wednesday the third day of October," 1838, according to the preamble. They met in their newly constructed council house, a commodious log structure, and Peter Pitchlynn served as speaker and wrote the rough draft of the constitution finally adopted.

The preamble of the 1838 instrument used almost the identical wording as that of 1834, including the Choctaw boundaries as outlined in Article II of the Treaty of Dancing Rabbit Creek. In both documents the language of the Treaty is transcribed almost word for word. The district boundaries were defined in both constitutions, as Article VI in 1834 but as an addition to the Preamble in 1838. And in 1838, of course, a fourth district was added. The words of the Constitution were:

> The Chickasaw district shall be bounded agreeably to the lines agreed upon between the Chickasaws and Choctaws at a treaty held and concluded between them at Doaksville in January, 1837.

The boundary lines were defined in detail by Article II of the Doaksville pact; but the Chickasaws were slow to move into their designated district, which included some fine farm land in the valleys of the Red and Washita rivers, until after the establishment of Fort Washita in 1842 as a protection for their settlements from raids by Plains Indians. Further, the Chickasaws never really became an integral part of the Choctaw Nation and separated themselves from the Choctaws in 1855.

As in 1834 the first article was a "Declaration of rights"; the second concerned the "Distribution of Powers"; and Articles III, IV, and V provided for legislative, executive, and judicial departments of government. A curious provision of the 1838 document was Article VI, which established a "Military Department." This Department was also mentioned in Article II, Section 1, which read:

> The powers of the Government of the Choctaw Nation shall be divided into four distinct departments, and each of them confided to a separate body of magistracy, viz., Those which are Legislative to one, those which are Executive to another, those which are Judicial to another, and those which are Military to another.

The Military Department was to be headed by one "General" in each district who could appoint two or more aides "to be termed majors." The generals and captains were to be elected and, in case of war, the District Chiefs were empowered to hold an election for a "Commander-in-chief" of all Choctaw military forces. If a functioning "Military Department" was ever established, its history has been a well-kept secret. Perhaps the provision (Article VIII, Section 12) that the "Military officers and warriors of this Nation shall not be allowed any compensation out of the Choctaw annuities; but shall serve their Country for honor" made it unlikely that many citizens could afford to pursue a military career; or, also quite likely, few Choctaws were of the nature to enjoy, for any period of time, the life of a soldier; and finally the Choctaw Nation had no real need for a military department.

In 1838 the General Council was enlarged from thirty to forty members to accommodate the new Chickasaw representatives. It remained a one-house body, but instead of ten members for each district, Apukshunnubbee District, with the largest population, was given thirteen, while

Mushulatubbee, Pushmataha, and the Chickasaw districts were each assigned nine. Qualifications for electors remained the same--every male citizen aged "sixteen years and upwards"--and the time of meeting, once a year "on the first Monday in October" was continued. Instead of Turnbull's Stand, in 1838 the place of meeting was given--actually the same vicinity--as "Nunihwayah, or Bending Mountain." The plural executive was retained in 1838, but instead of three "principal" chiefs there were four; the fourth was, of course, the chief of the Chickasaw District. The 1834 provision that "any two /̄chiefs_7 shall be deemed sufficient to exercise the duties of the Executive at the General Council" was also retained.

The Chickasaw chief and members of the Council were in the minority on so many matters that their effective participation in the four-district government was almost impossible. In fact, the Chickasaws soon began to write their own constitutions. Meeting near Fort Washita in 1846 some Chickasaw leaders adopted what they called a constitution. At another meeting in 1848 the Chickasaws repealed the 1846 document and wrote a more formal basic law for themselves. This provided for a "Chickasaw District Chief who 'shall be styled Chief of the Chickasaw people,'" and a Chickasaw Council which met annually, first at Boiling Springs, a few miles south of Fort Washita, later at Post-Oak Grove near the Fort, and still later at Tishomingo, which remained the capital until the dissolution of the Chickasaw government in 1906. No judicial department was established by the Chickasaws at first. The Chickasaw Council consisted of thirty members and included some representatives from each of the three Choctaw districts, so that Chickasaws not living in the Chickasaw District could be represented. The majority, seventeen, were from the Chickasaw District, while eight, two, and three respectively represented the Pushmataha, Apukshunnubbee, and Mushulatubbee districts. Since the meeting of the Chickasaw Council coincided with the date for the Choctaw Council, the first Monday in October, few if any Chickasaws remained active in the Choctaw government, and by 1855 the two nations had completely dissolved their attempt at political union. Several causes of friction had developed between the two Indian nations which led to their separation. The most important was the fear that the majority of Choctaws in the union government would somehow secure control of the Chickasaw tribal funds so that they would be lost to Chickasaw control. As early as 1846 Agent William Armstrong informed the Commissioner of Indian Affairs that the Chickasaws desired to "dissolve their connection" with the Choctaws, adding that:

> . . . as the Choctaws are four times as numerous, they very naturally fear that at no distant day they will become merged in that tribe, and thus lose their separate national existence. Upon this apprehension a few of the /‾Chickasaw_7 leaders have operated for the purpose of getting the main body beyond the reaches of influences likely to prevent them /‾the Choctaws_7 from acquiring control of the Chickasaw fund.

But to return to the Choctaw Constitution of 1838. Article V provided a more complete system of courts than had been authorized in 1834. Each district was to have a "Supreme District Court" composed of a "Superior District Judge" and one to three "Inferior Associate Judges," and each of the latter was to preside over an "Inferior Court." As in 1834, the judges were to be appointed by the district chief to hold office "during good behavior." Again the right of jury trial was guaranteed, the number of jurors to be twelve in most cases but twenty-four for a murder trial. The lighthorsemen in each district were to be under the direction of the judges to:

> . . . summon and cause to attend at the Courts, any culprit or person charged with crime or misdemeanor, [and] also any important witnesses or jury men that may be necessary.

A defendant had the right to appeal the decision of a lower court to the "Superior District Court"--undoubtedly this should read "Supreme District Court" as described above--whose decision was to be "ultimate and final."

Article VI, as described above, provided for a "Military Department," and Article VII dealt with impeachment, as had the corresponding article in the 1834 constitution. In 1838 Article VIII was again a miscellany of "General Provisions," as it had been in 1834. But in the four years between constitutions, the Choctaw solons decided that more "General Provisions" were needed; thus the 1838 article was twice as long as the one of 1834. Evidence that the Choctaw leadership followed Southern political and social thinking on Negro slavery had appeared in certain clauses of the 1834 Constitution and in 1838 this bias was again manifest. Section 6 read:

> . . . after the adoption of this Constitution, no free negro, or any part negro, unconnected with Choctaw and Chickasaw blood, shall be permitted to come and settle in the Choctaw Nation.

And Section 14 stated that "No person who is any part negro shall ever be allowed to hold any office under this government." Section 15 gave the General Council the power to adopt as naturalized citizens of the Nation any other Indians except those with Negro blood. Other sections of Article VIII provided that the General Council should elect a treasurer and an auditor for each district to serve two-year terms; for a procedure by which any two district chiefs could call special sessions of the Council; and for the "mode of declaring war in this Nation . . . ."

Finally, Section 17 declared that all provisions of the 1834 Constitution not "revised and adopted" by the 1838 convention were "null and void" and that no changes were to be made in the 1838 document until the "annual meeting of the General Council in the year eighteen hundred and forty-two."

The anti-Negro bias shown in the Choctaw constitutions of this period was emphasized by statute laws first passed by the Council in 1836. Fear of slave rebellion had reached the panic stage all over the slave-holding South as a result of the Nat Turner rebellion in 1831 and had continued in subsequent years. This fear, exacerbated by the appearance and success of William Lloyd Garrison's The Liberator, led to the passage of laws in all the Southern states designed to keep down abolitionist sentiment and prevent a bloody slave revolt. The 1836 laws of the Choctaw Nation were aimed primarily at white missionaries, many of whom were from New England and, as a result, were suspected of "favoring the principles and notions of the most fatal and destructive doctrine of abolitionism." Any missionary teachers who openly taught slaves how to read, write, and sing--without the consent of their owners--or allowed slaves "to sit at table" with them were automatically considered to favor "the principles and notions of abolitionism." The penalty was banishment from the Choctaw Nation to which they could never return. Further, slaves were forbidden to possess any "property, or arms"; for violations of this law, the slave owner was subject to a fine of ten dollars for each offense. It was provided, however, that a "good honest slave" might carry a gun if at the same time he carried a "written pass from his master or mistress." Another provision, designed to control the public conduct of slaves, stated that:

> . . . any negro slave infringing on any of the Choctaw rights, shall be driven out of company to behave himself and if such offender should return and intrude any further, he shall receive ten lashes by the Lighthorse, or any other person.

David Baird, in his Peter Pitchlynn, remarked that the Choctaw Constitution of 1838 was "remembered more for the praise it elicited than for its legal qualities" and quoted the English trader, Thomas J. Farnham, a visitor to the Choctaw Nation in the 1830s, by way of illustration. Impressed by "Pitchlynn's handiwork," Farnham wrote:

> At the time when the lights of religion and science had scarcely begun to dawn upon them, even while the dust of antiquated barbarism was still hanging on their garments, they read on all the holy battlements, written with beams of living light, "all men are, and of right ought to be, free and equal." This teaching leads them . . . to rear in the Great Prairie wilderness a sanctuary of republican liberty.

Whatever its "legal qualities" (or lack of them), the Choctaw Constitution of 1838 is of interest for extraneous reasons. Lester Hargrett's bibliography of American Indian laws and constitutions is the authority for much of the following information. In 1838 the General Council granted to David Folsom for four years the "exclusive privilege of compiling, translating, and publishing the laws" of the Choctaw Nation. Folsom, a prominent mixed blood, was an ardent advocate of education for his people. An early convert to Christianity, in 1825 he had assisted the missionaries, Alfred Wright and Cyrus Byington, in preparation of the first book printed in Choctaw, a speller for use in the mission schools, and had served as chief of the northeast district for several years before the removal of the Nation from Mississippi.

Folsom made arrangements with the Mission Press, established by the noted missionary to the Cherokees, Samuel A. Worcester, at Park Hill, Cherokee Nation, and the first printing press in Oklahoma, to publish The Constitution and Laws of the Choctaw Nation in both English and Choctaw. The volumes, both dated 1840, bear the name of John Candy as printer. The English version was written first and then translated into Choctaw by Jonathan Cogswell, a native missionary teacher who was an early convert to Christianity and had been a student at the Mayhew mission school in Mississippi. Cogswell, or "Ilatochunubbi" according to Hargrett, was undoubtedly in the employ of Folsom. It was Cogswell who took the manuscripts to Park Hill and acted as editor for both the English and Choctaw volumes while their printing was in progress. Concerning the English volume, one bibliophile has written:

> . . . this is not only the earliest printing of the Choctaw laws, it is also the first printing in present-day Oklahoma of the laws of any government. It would be worth reproducing simply as an example of early Western printing. More importantly, it may serve to remind us that civilization, even in our limited and self-centered sense of the word, was present in the West before the white man came.

The Choctaws, however, were not the first of the Five Civilized Tribes to put their laws into print. That distinction belongs to the Cherokee Nation, whose laws were first printed at Knoxville, Tennessee, in 1821, and whose constitution in 1827 appeared in print before their removal from the East. But it was the Choctaws, in 1834 and again in 1838, who wrote the first constitutional laws on Oklahoma soil. And the 1840 printing at Park Hill of the 1838 Constitution and laws of the Choctaws was the first for any government in what is now Oklahoma. The Cherokees did write a constitution in 1839 on Oklahoma soil at Tahlequah, following the act of union between the Eastern and Western Cherokees upon removal of the former as a result of the Treaty of New Echota. The first printing of this Cherokee Constitution, however, was done in Washington in 1840, and it was not until 1842 that John Candy printed a version of the 1839 constitution and laws in the syllabary invented by Sequoyah. The above is by way explanation, since the automatic assumption might be that the first publication of a legal document on a press in the Cherokee Nation would be for the Cherokees. No special merit is claimed for the Choctaws because of this, but it certainly is to their credit that instead of falling apart as a nation following their traumatic removal experience, they were able to pull themselves together and continue to build an effective constitutional government.

IV

Progress in Democracy: the Constitutions of 1842 and 1850

In 1842 the Choctaws wrote still another consitution, the third in eight years. Each succeeding document provided an improved basic law, designed to provide a more effective government for the Nation. Changes in Article III, whose subject was the legislative department in each constitution, 1834, 1838, and 1842, illustrate this point. The 1834 Council was unicameral and consisted of an equal number of members--ten, if the ex officio district chiefs are included--from each of the three districts for a total of thirty. In 1838 the number of districts was increased to four to provide for the Chickasaws, and the total membership of the Council, still unicameral, became forty. But in 1838, the representation from each district was changed so that Apukshunnubbee, most populous of the three Choctaw districts, received thirteen members, and the Mushulatubbee, Pushmataha, and Chickasaw districts were allotted nine each. This was a move in the direction of recognizing that people, not space, should be represented in a democratic government.

After 1838 continuous complaints were voiced by the two smaller Choctaw districts and the Chickasaws that their rights and interests were not adequately represented in the General Council of the Choctaw Nation by this apportionment of its membership. As a result, on November 10 in 1842, the first year in which constitutional changes could be made according to the Constitution of 1838, a new organic law was completed which provided for a two-house lawmaking body. Following the example of the Congress of the United States, the General Council was divided into a Senate, in which each district had the same number of members, and a House of Representatives, whose membership was based somewhat on population. According to W. David Baird, the prime mover for the 1842 changes was Peter P. Pitchlynn. Pitchlynn, who had just returned from a mission to Washington, was elected speaker of the regular fall meeting of the 1842 General Council and seized the opportunity to:

> . . . dissolve /̅the̲ 7 gathering into a convention which, under his watchful eye, wrote and adopted another constitution on November 10, 1842. Pitchlynn had been impressed by the organization of Congress . . . and he saw it as an answer to the complaints of the smaller Choctaw districts that their influence in the council suffered because of the larger representation of the more populous district.

The result was that from 1842 until the dissolution of the Choctaw government just before Oklahoma statehood, the General Council was a bicameral body. The Choctaw Senate as authorized in 1842 was composed of three members from each of the four districts. To qualify for election to a two-year term, a senator had to be a "natural born" male citizen at least thirty years of age. Since there was no office in the Choctaw government equivalent to that of a lieutenant governor or vice-president, the Senate was authorized to elect its own presiding officer. It also was empowered to participate in impeachment proceedings, although its role was not clearly spelled out. Impeachment, the constitution said, was to be carried out by a two-thirds vote of "both branches of the General Council," clearly a hangover from the earlier constitutions which had given the power of both impeachment and trial to the unicameral council. The impeachment procedure was clarified in later constitutions; the Doaksville Constitution of 1860 provided that the Representatives had the "sole power" of impeachment and that all such cases should "be tried by the Senate." The number of House members was established on district populations, using the ratio of one representative for each one thousand or fraction above five hundred. Twenty-one was set as the minimum age for a representative, who must be a male citizen, and the House was authorized to elect a Speaker as its presiding officer.

Other additions to the basic law in 1842 included an oath or affirmation to be taken by a district chief--the executive power was still vested in four district chiefs--when he was installed in office. The prototype of the oath is obvious, since the chief swore:

> I do solemnly swear or affirm that I will to the best of my judgment and ability faithfully execute the duties of my office, and will preserve, protect and defend the Constitution of the Choctaw Nation.

Each district chief retained the right to appoint a district secretary and the "inferior" district judges, but the judges of the higher courts were to be elected by the General Council. Presumably the lighthorsemen in each district had always been appointed by the district chief, but the 1842 constitution is the first to put this power into words. Personal qualifications for the office of chief, given in the 1834 constitution but omitted for some reason in 1838, were repeated in 1842. A chief must be a "natural born citizen," at least thirty years of age, and a resident of his district for one year.

The term of office for a chief remained at four years, but an unusual provision of the 1842 law indicated that the terms of the district chiefs had not previously coincided. The Apukshunnubbee District was instructed to elect a chief and speaker in July, 1844, to serve a two-year term; the Pushmataha District to elect a chief and speaker in July, 1845, for a one-year term; and in July, 1846, all four districts to elect chiefs and speakers and every four years thereafter. Apparently Mushulatubbee District had been the first to accept the Constitution of 1834, had elected chiefs for four-year terms in 1834 and 1838, and had just elected a chief in July, 1842. Apukshunnubbee District failed to elect a chief under the 1834 Constitution until 1836 and then followed with an election in 1840; the next election was to be in 1844, the elected chief to serve until 1846. Pushmataha District did not elect a chief under the 1834 Constitution until 1837 and followed with an election in 1841; the next election was scheduled for 1845, but the winner was only to serve until 1846. This provision of the 1842 constitution was therefore necessary to synchronize the terms of the four chiefs. The Chickasaw District had elected a chief in 1838 and therefore, like the Mushulatubbee District, fitted the election schedule. Thus in 1846 all four districts elected chiefs at the same time, the first time this had occurred in several years.

Article V of the 1842 document added a national appellate court to the judicial system of the Choctaw Nation. Since the word "Supreme" had been used in 1838 for the name of the highest court in a district, the constitution writers in 1842 felt constrained to use "National," in identifying the new court, to wit: "The National Court" consisted of one "National Judge" plus any two or three of the "Supreme Judges" from the four districts. The National Court was scheduled to sit once a year at Nanih Waya "during the Session of the General Council" and its decisions were declared to be "ultimate and final." The National Judge and Supreme District Judges were to be elected by the General Council and were to be "natural born" Choctaw citizens. Thirty was set as the minimum age for the National Judge, twenty-five for the Supreme District Judges, and no specified minimum age for the Inferior District Judges. All judges of whatever rank were to hold office during good behavior. A decision of an Inferior District Court could be appealed to the District Supreme Court and finally, if need be, to the National Court. In Section 15, Article V, constitutional authorization for election of prosecuting attorneys was made for the first time:

> There shall be District Attornies elected in each District by the qualified electors of their respective Districts, whose compensation and term of service shall be prescribed by law.

In 1842, Article VI, entitled "General Provisions," contained thirty-four sections, double the number in the comparable Article of 1838. Several of the new provisions reflected the peculiar nature and status of the Choctaw Republic, especially in its relations with the United States. Section 24 stipulated that "No citizen of this Nation shall ever be required to pay poll tax or be required to [pay] taxation for any property or for any pursuit of business whatever," and until the end of its national existence the Choctaw Nation never taxed its people. During the nineteenth century funds for governmental needs were first available from annuities paid by the United States according to treaty provisions, and later from other sources such as royalties paid by exploiters of Choctaw natural resources, especially coal and timber. Section 19 of Article VI in the 1842 basic law indicated both the source and the application of an important part of the Choctaw national income at that time. It embedded in the constitution the policy of spending $18,000 of the "interest money [$25,000] . . . from Chickasaw funds . . . annually for educational purposes." The balance of $7,000 was to be spent for support of blacksmith shops and "other national purposes." Few, if any, nations in history have expended a greater share of their national income for education than did the

Choctaw Nation. The "Chickasaw funds" referred to the $530,000 paid to the Choctaw Nation in 1837 when the Chickasaws joined the Choctaws in the West. Of this total, $30,000 was paid to the Choctaws immediately; the remaining $500,000 was invested in bonds of the state of Alabama and, at five per cent, provided $25,000 annually to the treasury of the Choctaw Nation. The $18,000 specified for education in the 1842 constitution was applied to the establishment and support of seven boarding schools, five for girls and two for boys. By 1845 two more male academies had been added to bring the total number of boarding schools to nine. In addition, neighborhood schools and Choctaw students attending colleges in the United States received financial support from the Choctaw government.

Choctaw election procedures were improved with the adoption of each succeeding constitution. Voter qualifications remained the same--all male citizens aged sixteen or over and residents of their district for one month--but the manner of determining the results became more formal. Elections were held on the first Monday in July at a site designated for each district. In 1834 the constitution directed that at each election site the "light horse captain," or highest ranking lighthorseman present, should form the candidates and their supporters into separate lines. Two or more judges, selected by the voters at the site on election day, then were to:

> determine the numbers [in each] line and [their] qualification and one of said judges shall publickly state the number of voters of each candidate and proclaim the person having the highest number elected.

In 1838 almost the same election procedures were authorized. The election judges, however, were to be "appointed by the Captain of the Light-horse company" rather than elected by the voters present. And additional instructions were given to insure that a record was made for each election result, to wit:

> . . . and it shall be the duty of the judges of the elections to report to the district clerks the names of the persons elected, and to what office, and by what majority; whose duty it shall be to record the same and inform the district Chief of the result of the election.

In 1842 more paper work was added to the election procedures and the "Supreme Judge" and one or two "Inferior" judges replaced the lighthorsemen as election supervisors. The District Secretary was instructed to prepare sheets on which the names of the candidates were listed. The name of every voter was then to be ". . . carefully written out in full and polled, inserting his vote in the same column in which the names of the candidates for whom he voted are placed . . . ." To assist the District Secretary in his election-day tasks, the Supreme Judged appointed two "temporary clerks." Actually three lists were made of the candidates and their supporters, one by the Secretary and one each by the two clerks. In canvassing the results of an election, the three lists were compared and discrepancies checked. Nowhere has any detailed account of a Choctaw election before 1860 been discovered, but the election procedures required by the Constitution of 1842 seem to indicate that problems had developed since 1834 which required that more careful and accurate election records be kept.

Like the one of 1838, the Choctaw Constitution of 1842 was printed at Park Hill. This edition was completed in 1847 and included all laws passed by the General Council between 1834 and 1846 which were then in effect, with the notation that "Repealed laws are omitted; and amended laws are printed as amended." According to Lester Hargrett, "300 copies were printed at the expense of Jonathan Cogswell," who had edited the printing in 1840 of the 1838 constitution, but it was Allen W. Carney, a former student at the Choctaw Academy in Kentucky, a "native school teacher," and a member of the General Council in 1845 and 1846, who compiled and edited the 1847 volume.

William Armstrong, "Acting Sup't Western Territory, who also served as United States agent for the Choctaws," was moved to write in his annual report for 1843 that the Choctaws had just "amended" their constitution and were "gradually adopting the form of our State Governments as they exist." Armstrong was pleased with the progress of the Choctaws in every phase of their society but especially in government. In 1840 he had praised the "proper decorum" of the Choctaw General Council. As added information, he noted that the council house was a "large and commodious building, fitted up with seats for spectators," and providing committee rooms; that the members received two dollars a day when the Council was in session; and that the length of a session averaged ten days. He further noted that the Choctaws were the only Indian tribe which has passed laws "prohibiting the introduction of ardent spirits into their country." His admiration for the Choctaws and the effectiveness of their government was summarized in 1843 when Armstrong wrote:

> It is gratifying to see the Choctaws, who have always been conspicuous, when contrasted with the other Indian tribes, for their truthfulness and fidelity, and for their uniform friendship to the whites, thus abandoning all their former habits and adopting slowly, but surely, all the blessings of good government, and the comforts and refinements of civilized life. Religion has spread her benign influence over this tribe, and it may truly be called a church-going people. In no country are the laws more respected or more certainly enforced when violated; an instance of robbery, or

> murder, by a Choctaw of an American citizen, while travelling through the nation, is not within my recollection.

Which makes it possible to speculate that the Choctaws in 1843 were perhaps more "civilized" than the Americans living in Texas--still an independent republic--or in the nearby states of the Union.

The 1842 constitution directed that no "alterations" of that document were to be made until 1850. Presumably this restriction was made to allow the passage of enough time to determine what was really effective, or vice versa, in the everyday operation of the government as outlined in 1842. In October, 1850, in accordance with the eight-year provision, a Choctaw convention chaired by Peter P. Pitchlynn met at Nanih Waya to write yet another constitution. David Baird, in reference to "Pitchlynn's fourth constitution" (those of 1834, 1838, 1842, and 1850 respectively) noted that it "differed only moderately" from the three earlier documents masterminded by Pitchlynn. It is clear that up until this time the Choctaw statesmen had made no clear distinction between a "constitutional convention" and the regularly elected General Council, and had not considered it necessary for a constitution to be ratified by a popular referendum. The "Conventions" which wrote the Choctaw constitutions of the early nineteenth century were actually the General Councils elected for those years, meeting at the regular fall dates, and resolving themselves into constitutional conventions for the purpose of writing constitutional rather than statute law when such action seemed desirable.

For example, a study of copies of the Choctaw Intelligencer, a weekly paper published at Doaksville, near Fort Towson and the most important town in Apukshunnubbee District for many years, from the July 4 edition through the issue for December 4, 1850, revealed no mention of a "constitutional convention" as such. In its coverage of the national election held on July 10, 1850, the Intelligencer featured items concerning the candidates in each of the four districts prior to the election and news of the results of the voting as soon as available after the election. Offices filled in 1850 were those of district chief (those elected in 1846 were completing four-year terms); district speaker (this was really a vice-chief, not a legislative officer); members of the House of Representatives (senators had been elected for two-year terms in 1849 and therefore did not appear on the 1850 ballot); and prosecuting attorneys for each district. In no instance was there mention of electing delegates to a Constitutional Convention. The newspaper named them "representatives," or "Council Men," or "Delegates to the General Council."

During the same period, however, many articles discussed proposed constitutional changes slated for consideration by the Council, and these proposed changes made the 1850 election one of the liveliest in Choctaw history up to that time. The editor of the Intelligencer observed the Doaksville scene on July 9, election eve, and reported what he saw and heard under the heading, "What would Mrs. Partington say to this [?]" Mrs. Partington, according to Webster, was an American Mrs. Malaprop, an imaginary old lady who was "distinguished for her misuse of words." The editor's comment in the July 18 paper beneath the Mrs. Partington headline was:

> On the night of the 9th, inst., we listened to 32 Electioneering speeches, and two Valedictory speeches from the former Chief and Speaker, making in all, 34 speeches; all of which were delivered in Choctaw, and within the space of four hours.

He went on to remark that "probably" never before had there been as much "interest taken in an election among us, as in the one held last week." Apukshunnubbee District, which had "very rarely, if ever," polled five hundred votes, polled 753, and there were probably "as many as 1000 persons on the ground" (actually a mile or two from the town). The editor added, that in spite of the large attendance at the District voting place, there was "an unusual degree of order and temperance maintained throughout." By comparison, the total vote cast in Pushmataha District was "about 400" and a few less than that in Mushulatubbee District. No election news from the Chickasaw District reported the number of votes cast, only the winners, but the Chickasaw vote was probably much smaller than that cast in the Apukshunnubbee District.

Thus a total vote of less than two thousand was considered unusually large in the Choctaw Nation of 1850, whose total population, when the Chickasaws are included, possibly was more than twenty-four thousand. But when it is remembered that in order to cast their ballots, the voters, only men aged sixteen or over, often had to travel many miles on foot or by horseback over primitive trails to reach the designated district voting place, it is remarkable that so many made the effort. And the election of 1850 probably caused more voters than customary to make the effort to cast their ballots because of the interest aroused by the proposed constitutional changes.

Of these proposed amendments, the one which stirred the most controversy recommended the replacement of the plural executive of four district chiefs by a single executive, a principal chief. This change had first been proposed at the session of 1842, when the General Council became a two-house body; but the objection was raised that no careful study had been made concerning the merits of having a single chief, and the proposal was laid aside for study until 1850, the earliest year set by the Constitution of 1842 for any constitutional revisions. The August 21, 1850, issue of the Intelligencer contained an open letter on the subject from Thompson McKenny, a prominent Choctaw citizen of Skullyville, where the Choctaw Agency was then located, and a leading member of the House of Representatives from the Mushulatubbee District. McKenny had previously issued a circular to the people explaining the advantages of "having but one chief over this nation." Col. Peter Folsom, also a prominent citizen of Mushulatubbee District, had in turn strongly attacked McKenny's proposal on the grounds that the "people were not prepared to live under such a government" and that its adoption would create widespread dissatisfaction and disturbance. McKenny's letter was designed to answer Folsom's arguments and to inform as many voters as possible concerning the merits of the single executive system.

McKenny answered the charge that a single chief would become an uncontrollable tyrant by pointing out that the chief would be so "limited by law" that it would be impossible for him to "usurp the right of the people even were he so disposed." Four chiefs, he continued, "paralyze each other's efforts" and thus prevent progress. The result was "no sufficient government at all," which could lead to party and sectional divisions, followed by confusing anarchy, "outbreak," and "perhaps national ruin." The United States and other great nations, McKenny argued, all have only one executive, while "we Choctaws, a few thousand of us, have four chiefs to govern our nation." He then listed such Choctaw leaders as "Col. P. P. Pitchlynn, Gen. R. M. Jones, Col. Israel Folsom, Col. G. W. Harkins /‾chief of the Apukshunnubbee District_/, and

Col. McCurtain /‾Cornelius, chief of Mushulatubbee District_7" as having "no fears of this change."

One curious foreboding which stirred strong opposition to the proposal for a single chief was not discussed by McKenny but was mentioned by the editor of the Intelligencer in the issue of September 11, 1850, in connection with Col. Peter Folsom's "Remonstrance" to McKenny's circular. Apparently the editor favored a single chief, but noted that the "greatest difficulty in the way of a change appears to be a dread of taxation." Just how the change to one chief instead of four would cause the Choctaw government to impose taxes on its people for the first time was never made clear, but it apparently was a real fear nonetheless. This fear never materialized, of course, after the executive was finally changed from four chiefs to one chief in 1860. The proposal for one chief failed to pass the General Council in 1850, but not before it had generated a heated discussion. A correspondent, identified as "C. J.," wrote the Intelligencer concerning this debate in the Council, his letter appearing in the edition for November 20. Noting that the question of one chief had been brought up "before the Convention," C. J. advised the editor that it had "kindled a great deal of wild-fire but was disposed of without any lives being lost." He then expressed the hope that members of the Choctaw Council would never reach the point that would cause them to "fight duels and shed one another's blood." His letter closed with the observation that the Choctaw "form of Government is borrowed principally from the State of Arkansas," referring, of course, to that set up by the new constitution.

The most important constitutional change of 1850 was the reorganization of the judicial system to include a system of county courts, with judges elected by the voters in each county for short terms. This was done under the supervision of what must have been a joint committee of the General Council appointed to deal with changes in the Constitution. It consisted of three senators, one from each of the three Choctaw districts (Peter Pitchlynn of Apukshunnubbee; Robert M. Jones of Pushmataha; and John Riddle of Mushulatubbee), and five representatives (including Thompson McKenny of Mushulatubbee, and Jonathan Cogswell of Pushmataha). Pitchlynn, of course, was a prime mover for constitutional changes and served as chairman of the group. Of the representatives, McKenny had led the national discussion favoring a single chief and Cogswell had supervised the 1840 printing of the 1838 constitution at Park Hill and had personally financed the cost of printing the 1842 constitution. Probably, when this Committee presented its recommendations to a joint session of both houses, the Council resolved itself into a Committee of the Whole with Peter P. Pitchlynn presiding. In effect, the Council thus transformed itself for the occasion into a constitutional convention with Pitchlynn as its president. The Speaker of the House in the 1850 Council was Daniel Folsom, while "Captain John Riddle," President of the Senate, was also a member of the Committee on the Constitution.

No evidence was discovered of any real opposition to reorganization of the Choctaw judiciary. The national court, now styled the "Supreme National Court," was retained; its members were still elected by the General Council. It consisted of a Chief Justice and three Associate Justices and sat once every six months at the Council House to hear appeals from the lower courts. Most importantly, as mentioned above, county courts were authorized. Perhaps the most significant acts of the 1850 Council were laws enacted toward the close of the session which divided each district into counties and prescribed the forms to be followed in county court actions. Pushmataha District was first organized into four counties--Kiamichi, Tiger Spring (re-named Blue in 1854), Jack's Fork, and Shappaway (re-named Atoka about 1854). In 1886 a fifth county, Jackson, was established in the District for the convenience of its residents and created by using parts of the other four counties. Four counties were formed in the Mushulatubbee District--Skullyville, Sugar Loaf, Sans Bois, and Gaines--and a fifth county was added in 1855 after the Chickasaw Nation severed its union with the Choctaw Nation. This fifth county, formed from the eastern section of what had been Perry County in the Chickasaw District, was fittingly named Tobucksy, Choctaw for "coal," since it was the region surrounding the present city of McAlester where commercial coal mining later flourished.

Panola, Wichita, Caddo, and Perry were the names given to the four counties authorized for the Chickasaw District. It is doubtful that any effective county organization developed among the Chickasaws at this time, because the movement for separation from the Choctaws was already well under way in 1850 and was completed by a treaty with the Choctaws in 1855. The independent Chickasaw Nation did remain organized into four counties, but with slightly different boundaries and mostly different names, specifically: Panola (the only carry-over), Tishomingo, Pontotoc, and Pickens. The largest of the four districts population-wise in 1850, Apukshunnubbee, was carved into seven counties--Wade, Nashoba, Eagle, Red River, Towson, Cedar, and Boktuklo. Boundary lines were spelled out for each county in each district; but they would be difficult, if not impossible, to locate today, since many of the check points of 1850 could now be found only with great difficulty or not at all. For example, the law designating the boundary lines of Nashoba County stated:

> Nashoba county shall be bounded on the north by Wade county, to a point opposite the source of Little River; thence on a straight line to said source; thence down Little River to where an old hurricane [tornado path] crosses said river about a mile and a half above Silas Garland's; thence along said hurricane eastwardly to its termination; thence on a line eastwardly to where it may strike the boundary line of the state of Arkansas, five miles north of Widow Solimon's [sic]; thence along said boundary line northwardly to the beginning.

At the close of its national existence the three districts of the Choctaw Nation comprised seventeen counties, seven in Apukshunnubbee and five each in Pushmataha and Mushulatubbee districts.

The 1850 General Council adjourned its fourteen-day session, which had convened on Wednesday, October 2, on Thursday, October 17. The Intelligencer for October 23, in an item headed "General Council, informed its readers about the accomplishments of the 1850 session. The last day of the session had been a hectic one. The Council "went to work before breakfast," adjourned at midnight, and between times, according to the Intelligencer, "bills were passed in omnibus style, by the handful." A complete list of bills passed and constitutional changes made was not available, but the editors confidently reported several actions of the Council. The proposed judiciary system, patterned after that of Arkansas, was "in the main adopted"; the districts were divided into "precincts or counties"; the "plan for one chief was no go"; the right to tax for school purposes was "incorporated into the Constitution"; the "hanging law" was brought up, but defeated; provision was made to erect four jails, one for each district; and Jesse Wall was elected "Circuit Judge, with a salary of $400." The right to tax was never implemented, and few of the authorized jails were built.

Two other changes, not on the editor's list, were the increase of senatorial terms from two to four years and the removal of the capital to Doaksville. This removal to Doaksville must have been the work of those who complained, as did the editors of the Intelligencer on October 2, 1850, that the General Council held its sessions "away up in the mountains" at Nanih Waya. The expense of sending a reporter was great, and if the session had been in Doaksville, a blow-by-blow account of the proceedings in 1850 could easily have been printed by the editors. In 1851 the Council voted to return the capital to Nanih Waya. It was moved again a time or two--for example, the Skullyville constitution of 1857 designated Boggy Depot as the capital--before the seat of government was located at Armstrong Academy in 1863. Designated "Chahta Tamaha" (Choctaw Town), the capital remained there until 1884, when a new building at Tuskahoma, near Nanih Waya, served as the seat of Choctaw government until the absorption of the Choctaw Nation into the new state of Oklahoma.

The establishment of county units was a very important step toward making the Choctaw government more democratic, bringing it closer to the people. The county court system replaced the system of "Supreme and Inferior District Courts," whose judges had been appointed by the General Council during good behavior. Under the new constitution each county elected its own judge for a two-year term, who presided over a court whose jurisdiction concerned divorces and probate matters, preliminary hearings for those charged with major crimes, and minor offenses where the amount involved did not exceed fifty dollars. Major offenders were tried before a circuit judge, who was appointed by the General Council to serve all four districts. A statute law of 1850 directed that this Court should sit in each district according to the following schedule in January, April, July, and October of each year:

First Monday - Apukshunnubbee District
Second Monday - Pushmataha District
Third Monday - Chickasaw District
Fourth Monday - Mushulatubbee District

Each county had its "court ground," or county seat, where court sessions and elections were held. This increased participation of the Choctaw voters, since no longer did any voter reside an unreasonable distance from his polling place as had been the case when each district provided only one election site. Additional voting precincts besides the county court grounds were authorized for many counties during the 1850s and later, which had the effect of increasing voter participation even more. Incidentally, the minimum voting age, set at sixteen in 1834 and continued by the constitutions of 1838 and 1842, was raised to eighteen in 1850.

The Constitution of 1850 apparently was the only one of the several Choctaw constitutions actually printed in the Choctaw Nation. The printing was done at Doaksville early in 1852, editions being prepared in both English and Choctaw. The press used was that of the *Choctaw Intelligencer*, which had ceased publication with the issue of January 7, 1852. Two Choctaw mixed bloods, Noel Gardner and Joseph Dukes, seem to have undertaken the printing with their own resources. They were later reimbursed by the Choctaw Council through an Act of November 8, 1853, which appropriated $172 to pay them for ninety-one copies "now on hand" and eighty-one additional copies which had been "lost in the recent conflagration of houses in Doaksville." Since both Gardner and Dukes for many years had acted as interpreters and translators, especially for the Christian missionaries to the Choctaws, it is likely that they edited both volumes and made the translation for the edition printed in Choctaw.

Noel Gardner was a member of the joint committee of the General Council which wrote the Constitution of 1850 and Joseph Dukes, who served for several years as official Choctaw translator for the Council, helped frame the Choctaw Constitution of 1860, the final such document written by the Choctaws. Fittingly, each had a son who later became principal chief--Jefferson Gardner (1894-96) and Gilbert Wesley Dukes (1900-1902).

The new system of county courts, with the circuit court meeting in each district to try the more serious crimes such as grand larcency and murder, began operation almost before the ink was dry on the new 1850 Constitution. The issue of the Intelligencer for December 4, 1850, carried the announcement in both English and Choctaw that the first session of the Towson County Court (rendered phonetically as "Tausen Kaunti Kot" in the Choctaw version) would open on Wednesday, December 11, at Spring Hill. The notices were signed by "Daniel Folsom, County Judge." The first judges must have been appointed, but beginning with the election of the first Wednesday in August, 1851, (instead of the second Wednesday in July as specified in the 1842 Constitution), the judges of the Choctaw county courts were chosen by the people. The Circuit Court, with the newly-designated Judge Jesse Wall presiding, also was immediately activated. Judge Wall was in Doaksville on January 5, 1851, making preparations for an April court term in Apukshunnubbee District. He then visited "C. Stewart's on Boggy" (this was the court ground for Pushmataha District, usually called Mayhew, or the Forks of Boggy) on January 13 and the "Boiling Spring" near Fort Washita, (court ground for the Chickasaw District), on January 21. Wall appointed Judge Canady M. McCurtain to hold court for him in Mushulatubbee District.

Since they were courts of record, the proceedings of the Choctaw courts have been preserved in bound volumes. Mostly in good condition, many are now located in the Indian Archives Division of the Oklahoma Historical Society. Choctaw justice was administered with dispatch. At the April, 1851, session of the Circuit Court in Mushulatubbee District, two men were convicted of murder. One appealed his case to the "Supreme National Court," scheduled to convene at Doaksville on the first Wednesday in May, but the other was sentenced to be shot in ten days. When the latter complained that ten days was too long to wait, the Court asked him how much time he needed. He replied that six days was enough. His request was granted and the execution re-scheduled for Tuesday, April 15. The editor later learned that the "man was made drunk with whisky, and executed on Saturday last, at his own request." Such an act, the editor judged, was a "gross violation" of the Nation's laws and "contrary to the laws of humanity . . . ." Judge Wall held a session of four days, ending on Thursday, April 17, 1851, at the Pushmataha District Court Ground; the docket consisted of four murder cases and two civil cases. Three of the four charged with homicide were found guilty and sentenced to death by shooting. One asked that his sentence be carried out at once; when the Judge agreed, the defendant was executed on the spot, during the last day of the court session. The execution dates for the other two were set for only a few days later, April 22 and April 26. Such swift administration of justice was the rule, not the exception, in the Choctaw Nation, at least during the 1850s.

A typical session of "Our Supreme Court," reported by the Intelligencer in November, 1851, sat for five days and decided five cases. In two murder cases reviewed, the decision of the Circuit Court was upheld in one and reversed in the other. A rape case was "dismissed for want of evidence," and in two cases concerning estates under probate the Circuit Court decisions were confirmed.

A cursory examination of the records kept by Choctaw county courts during the early 1850s indicates that probate cases, settlement and administration of estates, and divorce actions were by far the chief causes considered at that level of the Choctaw court system. The records of the Blue County Court, Pushmataha District, during the years 1852-1854 furnish typical examples. Two cases were preliminary hearings in murder cases, one for killing a woman as a witch and the other for "Killing a Choctaw." In neither instance was the name of the victim recorded, but in each case a "jury of seven" recommended dismissal on the ground of insufficient evidence. In two other cases one Humma was fined $6.00 for personal injury done to David Perkins--this was the verdict of a seven-man jury--and two arbitrators appointed by the court settled a property dispute concerning ownership of a horse and a house. The remainder of the decisions were chiefly concerned with divorce.

On January 5, 1853, Judge John Folsom ordered "Mihachi" to remain separate from her husband, since she was already determined to do so, and to pay a fine of $30 for the privilege. She paid the $30 in full on January 10, according to the court clerk. On June 30, 1853, Acting Judge James Harvey granted "Emahoke" a divorce, "on the ground that /̄ she had_7 deserted her husband," and fined her $25.00. Between July 27 and October 31, Judge T. B. Turnbull granted several divorces, usually for the reason that the couple was already living "apart" from each other. In most of these cases no fine was levied. Between January 25 and April 16, 1854, several cases of desertion and divorce were settled, chiefly by Judge William Stuart. In about half of these judgments fines were imposed on the women for deserting their husbands, the usual amount being $25.00 each. One exception, under Acting Judge Willis Wright, was the case of a man who was fined $50.00 by a jury of seven because he had falsely "accused a woman of misconduct." Another exception was a decision made on April 26, 1854, which read:

> We, the jury of seven, appointed to consider a case, agree as follows:
>
> We recommend the divorce be granted to Tahocke and his wife Loti without fine, not having testimony of both parties, we fail to find who is guilty and subject to fine.

Judge William Stuart agreed and signed the recommendation of the jury. In 1857 and thereafter, jurisdiction in cases of divorce and alimony was given to the circuit courts, which eased the case loads of the county courts considerably.

V

The Constitutional Crisis of 1857-1860

In 1855 the Chickasaws, who had become increasingly unhappy with their minority position among the Choctaws, finally arranged a treaty, the United States participating, by which they dissolved their political connection with the Choctaw Nation. In effect, the Chickasaw District ceased to be a section of the Choctaw Nation and was recognized as a self-governing entity by the United States and the Choctaws. The western boundary of the Chickasaw Nation was set at the ninety-eighth meridian and the area between the ninety-eighth and hundredth meridians, known for several years thereafter as the Leased District, was conveyed to the United States to be used as a reserve for the "wild tribes" of Indians. For this lease the United States paid $800,000, of which the Choctaws received $600,000 and the Chickasaws $200,000. In order to secure a clear title to their land, the Chickasaws paid the Choctaws another $150,000. In 1855 this was paid out to the Choctaws, nearly 18,000 of whom each received eight dollars.

Just as the merger with the Chickasaws in 1837 had made it necessary for the Choctaws to write the Constitution of 1838, so in 1855 the secession of the Chickasaws forced the Choctaws to revise their 1850 constitution. This time, however, a new constitution was not accepted by the Nation until hot disputes between opposing factions had brought the Choctaw Nation close to violence, and perhaps civil war, and the organic law had been directly ratified, for the first time ever, by a popular vote of the Choctaw people. Possibly because Peter P. Pitchlynn, a prime mover in the writing of earlier Choctaw constitutions, was busy in Washington during the early 1850s as the head of a delegation trying to settle tribal claims against the United States, no effective leadership made itself available to pull the various Choctaw factions together for the preparation of a new constitution. Whatever the reasons, Douglas H. Cooper, who had been United States agent to the Choctaws and Chickasaws since 1853, wrote from Skullyville to the Commissioner of Indian Affairs on September 15, 1857, concerning the situation that had developed. Cooper had just returned from a stay of several months in Washington on official business. He reported that during his absence an "excited condition in regard to political affairs" had developed among the Choctaws which had led to "great disorder." This state of affairs, Cooper continued, had:

> . . . arisen from disagreement as to the force and effect of the new constitution adopted by the Choctaw convention last January. Elections were ordered under both the old and new constitution/s_7, thus bringing about a condition in their political affairs threatening collision between the opposing parties, and total disorganization of the Choctaw government.

The "constitution adopted . . . last January" referred to a document customarily called by the Choctaws the "Skullyville Constitution." The word "Skullyville" was popularly used by the Choctaws as a name for the village which had grown up at the Choctaw Agency, near the present town of Spiro and some twelve or fifteen miles southwest of Fort Smith. Its use as the name for a county in the Mushulatubbee District has already been noted. The term Skullyville derived from the fact that the Choctaw Agency was one of the sites at which per capita payments were made to the Choctaws, those of the Mushulatubbee District, and *iskuli* or *skully* was the everyday Choctaw word for "money." A convention of delegates, dominated by mixed bloods and probably representative of only a minority of the Choctaws, had met at Skullyville on January 5, 1857, and framed a constitution which proved unacceptable to a large percentage of the Choctaw people. It may be that slavery was a prime issue in the Choctaw Nation at this time, just as it was in the United States. Evidence indicates that the writers of the Skullyville Constitution represented the interests of the mixed-blood slaveholding Choctaw citizens, aided from the background by Douglas H. Cooper, a Mississippian, a friend of Jefferson Davis, and a strong supporter of slavery. Both Cooper and the mixed-blood Choctaws hoped, as the constitution of the Confederate States of America attempted a few years later, to enshrine Negro slavery as a permanent institution. For example, Article VIII (General Provisions) of the Skullyville Constitution stated:

> The General Council shall have no power to pass laws to emancipate slaves, without the consent of their owners, unless where the slaves shall have rendered to the Nation some distinguished service--in which case the owner shall be paid the full equivalent for the slave so emancipated.

A more obvious reason for conservative discontent was the abolition of the office of district chief, a cause of controversy when attempted in 1850, and the creation of a strong, one-man executive who was titled *governor*. This employment of the title of *governor* for the executive, rather than *chief*, aroused an elemental fear which fueled the opposition to the Skullyville Constitution, chiefly by full bloods who dreaded any change and resisted it step by step.

Their fear was justified. *Governor* was the title of the chief executive of a United States territory or state; its use as a title was one reason to suspect that the new constitution was designed to be the first step toward destroying the Choctaw Nation as a sem[illegible]independent political unit and making it a territory of the United States. This development would lead inevitably to the disappearance of the Choctaw Nation as a political entity, the survey and allotment of their land, and a flood of white settlement. In 1854, for example, according to David Baird in Peter Pitchlynn, Senator Robert W. Johnson of Arkansas had introduced into Congress "legislation to provide the Choctaws with a territorial form of government." In Washington at the time on tribal business, Pitchlynn was so "favorably impressed" by Johnson's bill that he sent copies of it to leading Choctaws. Both Robert M. Jones and Thompson McKenney, leading mixed bloods, "agreed that the bill's provisions were enticing" and secured approval of it from the "tribal council's special committee on territories." Nothing came of the measure at that time, but leaders of the conservative faction of the Choctaw people undoubtedly knew of this attempt and its approval by mixed-blood leaders.

During the 1850s the official policy of the United States toward the Five Civilized Tribes was to exert continuing pressure designed to change their political status to that of one or more territories. For example, in his annual report, dated November 30, 1857, J. W. Denver, Commissioner of Indian Affairs, remarked of the "four great southwestern tribes"--Cherokees, Creeks, Choctaws and Chickasaws--that:

> Their regularly organized stable governments and laws . . . ., their general devotion to industrial pursuits, and their comparative national and industrial prosperity, evince a most creditable and gratifying degree of advancement in the fundamental elements of civilization. Some, if not all of them, appear to be expecting and preparing for an important change in their political and municipal relations with the United States, and there is no doubt that suitably organized territorial governments may . . . be extended to them at an early day.

Commissioner Denver's thoughts concerning the "four great southwestern tribes" were influenced by the letters he received regularly from Elias Rector, Superintendent of Indian Affairs for the "Southern Superintendency," with headquarters at Fort Smith. Like Senator Johnson, Rector was a citizen of Arkansas; together their opinions probably reflected those of the majority of the people of Arkansas and other neighboring states who hoped for the opening of the Indian country to white settlement as soon as possible. In a long letter, dated September 24, 1857, Rector informed Denver that the Cherokees and Choctaws, each under provisions of their removal treaties, had been entitled for years to a delegate on the floor of the House of Representatives. He believed that Congressional delegates, in the light of their advancement in civilization, should be approved for all of the Five Civilized Tribes. Of the Choctaws, Rector added that in order to end their status as "aliens and dependents and wards of the United States," they must first change from the system of common ownership to that of individual titles to land. Individual land ownership, according to Rector and the conventional wisdom of the day, was:

> . . . the very mainspring on which the prosperity of a people depends; . . . that land . . . is wholly without a value, except so far as little portions of it are cultivated . . . .
>
> The Choctaws . . . are prepared to assent to the provisions of a bill introduced three years since . . . by Senator Johnson of Arkansas, for the creation of the Territories of Chah-la-kee, Chah-ta, and Muscokee . . . .

As for the Choctaws, Rector was convinced that they would "unhesitatingly reject" a territorial bill in "the ordinary form." First, he believed, they should be induced to have their land surveyed and parceled out in such a manner that each Choctaw citizen would have an "ample quantity for all his needs," the titles to be "absolutely inalienable" for many years. The surplus would then be sold to whites, "making every individual in the tribe wealthy." The Indians under territorial government would become citizens of the United States, their rights protected by United States courts to be established before the first surveyor was allowed to enter the Choctaw Nation. Rector proposed that the Choctaws themselves, not United States agents, should operate their own land offices and set their own prices. Of the Skullyville Constitution, Rector concluded:

> The Choctaws have adopted a new constitution, vesting the supreme power in a governor, who has been elected. It is understood that this change has been made preparatory to the acceptance of the bill already mentioned.

It is no wonder that the conservative full bloods were unhappy with what had been done at Skullyville.

As seen by a majority of the Choctaw people, especially the conservative full bloods, a minority convention, dominated by mixed bloods and meeting at the Choctaw Agency near Fort Smith, was doing the will of the United States in a move to destroy the Choctaw Nation. Information concerning the origins of the Skullyville Constitution--how and when it was authorized, and how the delegates were selected, for example--is not available, so that some conclusions made here are subject to revision. Since its president was Tandy Walker, a leader of the progressives, it must have represented a minority faction, and it did propose a government which, according to Lester Hargrett, "substituted for the district chiefs and council a governor and legislature after the American plan . . . ."

And certainly the Skullyville document, wrote Grant Foreman, "met with the bitter hostility of the majority of the tribe." Several counties along Red River failed to vote in the elections of August, 1857, which selected the governor and other officials designated by the Skullyville constitution. The first Council of the Skullyville government, which met in October, 1857, provided for another election to be held on the first Wednesday in December, 1857, but the same counties again refused to vote or in any way to recognize the authority of the Skullyville government. Instead, the opposing full-blood faction met at Doaksville in May, 1858, adopted another constitution, and elected a rival set of officers, including district chiefs. It is possible that this document of May, 1858, was merely the Constitution of 1850 revised to remove the Chickasaws from participation in the Choctaw government. It is "possible" because no copy of the constitution prepared by the Doaksville meeting of May, 1858, has been found to prove otherwise. In any case, the Choctaws had two opposing governments in mid-1858. Grant Foreman, in The Five Civilized Tribes, described the situation well:

> Operation of law throughout the Choctaw Nation was about to be suspended, peace of the country was seriously threatened; and the efforts of the United States Government were engaged to restore peace destroyed by its schemes for forcing a territorial government on the Indians in violation of their treaty stipulations . . . . The department of the interior espoused the cause of the minority; the majority were characterized as rebels and warned by the secretary of the interior that if they did not cease their opposition to the constitution of Skullyville, a military force would be sent into their country to compel obedience. Great excitement and disorder prevented the peace and quiet that should have prevailed in the presence of bountiful crops.

The Choctaws, however, essentially a law-abiding people, were able to compromise their differences before events reached the shooting stage. The Skullyville government, alarmed by the general situation, held two special sessions of its General Council in April and June, 1858. The original governor under the Skullyville Constitution was Alfred Wade, who served only one year of a two-year term. On January 12, 1858, he resigned his office in the face of the mounting full-blood opposition, and the duties of governor were assumed for the remainder of the term by Tandy Walker, the president of the Choctaw Senate who had also served as president of the convention which prepared the Skullyville Constitution. So it was Tandy Walker who headed the Skullyville government in 1858 and was a leading figure in effecting the compromises which prevented bloodshed. The special Council session of April 16, 1858, confirmed Tandy Walker as acting governor and gave him the authority to fill:

> . . . by appointment all vacancies in any of the County Offices of this Nation, whenever such vacancies shall occur in consequence of the negligence of the voters at the regular time for holding elections, or in consequence of a disposition to refuse allegiance to the Constitution and laws of the land . . . .

The act also mentioned other reasons for vacancies, but the "disposition to refuse allegiance" was the immediate occasion for the enactment of this law. Also enacted at this session was a law extending the time for taking a census authorized by the General Council in 1857, because of "unavoidable delays" in filling the office of sheriff "in some counties." Since the sheriff was the official responsible for taking the census in each county, no complete canvass could have been made at the time.

The defiant opposition still refused to come to terms, however. Instead, it was at this time, May, 1858, that opposition leaders met at

Doaksville, prepared another constitution, and selected officials for the rival government. Governor Tandy Walker immediately called another special session of the Skullyville Council to deal with the crisis posed by the rival government, labeled "revolutionary in character" by him and his followers. Meeting in special session on June 19, the Skullyville Council proceeded to enact several pieces of legislation designed to cope with the situation. A long resolution excoriated the Doaksville opposition. It mentioned that:

> . . . the continued excitement and disaffection to the existing government pervading some of the counties of the Nation situated on Red River, amounting to such opposition thereto, as to have induced the assembling of a convention without the sanction of precedent, the form or validity of law, which convention has actually put forth a constitution for the Choctaw Nation, suiting their own views and antagonistic to the existing one, and through the proclamation of their presiding officer called upon the voters of the entire nation, to vote at a given day in the future upon the question, whether the constitution thus set up, as the legal one in existence, shall be the proper constitution of this Nation.

The resolution then asked the leaders of the opposition, in order "to restore peace and harmony," to give the Skullyville government a "full and fair test." Then, if changes were desired, they could proceed in a "regularly legal mode" to effect any needed reforms.

If this resolution was intended as an olive branch, some of the laws passed by this Council must certainly have been considered by the Doaksville leaders as inflammatory rather than conciliatory. For example, one act prescribed a fine of $100 to $500 and a term of six to twelve months in a county jail for any one convicted of holding an election "under any law not legally passed by the proper and regularly constituted law making power of this nation." In addition, the number of lighthorsemen was increased, along with their pay. The pay of all county officials, including sheriffs, judges, justices of the peace, and constables was also raised. Opponents of the Skullyville government thus found themselves liable to fine and imprisonment if they tried to hold an election and threatened by an enlarged body of lighthorsemen if they continued active opposition. The pay raise for county officials was possibly designed to persuade citizens of the rebellious counties to accept appointments as county officers from the Skullyville governor as authorized by the April 16 law. On the one hand, the Skullyville government treated the Doaksville government as an outlaw administration; and in return, the Doaksville leaders considered the Skullyville government as an illegitimate group. The die was cast and civil war threatened.

The situation remained tense during the summer and early fall of 1858. Available evidence indicates that compromisers from both factions went to work to prevent bloodshed, and it is true that the United States government threatened to send in troops if order were not otherwise restored. Probably neither side wished to risk such outside military intervention in Choctaw internal affairs. This possibility and the threat made by the United States to withhold annuity payments were probably the most important factors involved in forcing a compromise. In any case, when the General Council of the Skullyville government met for its regular session in October, 1858, several conciliatory resolutions were passed. For example, a resolution of October 13 assured Major Elias Rector, Superintendent of Indian Affairs, Southern Superintendency at Fort Smith, that the Council was prepared to follow the "instructions of the President of the United States" in regard to immediate settlement of the "domestic troubles existing in this Nation, respecting the present form of our government . . ." and that it would:

> . . . provide by bill, at the present session, for the submission to a vote of the people at the next regular election, of any . . . amendments, deemed practicable, which may be demanded by any portion of the people of this Nation, to the present constitution, in the manner and form that instrument prescribes.

Perhaps United States officials, who first had purported to believe that the opposition to the Skullyville government was a dissident minority, had concluded that the opposition obviously constituted a majority. No previous Choctaw constitution had ever been ratified by popular vote, unless reelection of Council members who had participated in Constitution-writing constituted such a ratification. In the case of the Skullyville constitution, a popular vote was undoubtedly the best way to determine the feeling of the majority, and the opposition began to press for an election to determine the wishes of the Choctaw people concerning the future of the Skullyville government.

Several acts passed by this Council will illustrate its conciliatory trend. In fact, opponents of the Skullyville government would have been justified in claiming victory, and one law passed on October 16 alone would almost justify such a conclusion. This act restored the office of District Chief and authorized payment of some of the expenses incurred by the opposing Doaksville government. The "Governor of this Nation" was instructed to appoint immediately a chief for each District to serve until the next regular election, at which time their successors would be elected for two-year terms. Part of the compromise was that the newly-appointed chiefs for the Apukshunnubbee and Pushmataha districts would be leaders of the Doaksville party. The district chiefs thus authorized were not vested with the executive power previously exercised by such officials, since they were placed under the supervision of the Governor to whom they were required to make regular reports. But the opposition believed the restoration of the office of district chief to be a step in the right direction and continued to work for a new constitution and a government more to their liking.

In addition, the Doaksville leaders were to be paid, not hanged, for their roles in opposition to the Skullyville regime. Section 10 of the Act of October 16 provided that "each member of the convention . . . held at Doaksville in May last" was to be paid $3.00 a day for thirteen days and $3.00 for each thirty miles traveled "going to and returning from Doaksville." Section 11 further provided that the "same per diem and mileage" paid to the General Council under the Skullyville government should be paid to members of the General Council of the Doaksville government. Funds to pay the Doaksville officials were to come from money held by the Apukshunnubbee District Treasurer "when that fund is paid into the National Treasury." It was promised that warrants would then be issued by the National Treasurer to pay the officials of the Doaksville government. These payments, however, were not to be construed as recognition that either the Doaksville Constitution or any actions of the officials under its government were "regular, proper, or legal," but simply a:

> . . . measure to restore peace, quietude and conformity to law and its authorities, in those counties in the Nation, which have heretofore refused compliance therewith.

Finally, on October 26, after what must have been a prolonged and acrimonious debate, a resolution passed the Council which provided for "submission to a vote of the people . . . the question of 'Convention' or 'No Convention' . . . ." The resolution stated that the friends of the "Scullyville Constitution" wanted to quiet the charge that they had desired to "stifle the voice of the people" by refusing to call such a vote previously. Their defense was that the Skullyville government had been "fully recognized" by the United States and that they had only wished to have it "fully tested" before it was voted on. Noting that the "principal and District Chiefs and the Council" recently elected under the Doaksville Constitution were "known to have yielded their opposition . . . and now submit to the Skullyville Constitution," the Governor of the Choctaw Nation was instructed to call for a "Convention or No Convention" vote sixty days after the previously rebellious counties became "organized under the Skullyville Constitution." Specific instructions for holding the election were then spelled out. If the "Convention" vote won, the resulting constituent assembly was authorized either to alter or amend the Skullyville Constitution or to "frame a new one, for submission to a vote of the people for their ratification or rejection."

For reasons not learned, the "Convention or No Convention" election was not held until September 28, 1859, less than a month before the regular 1859 meeting of the General Council at Boggy Depot, site designated as the Choctaw capital by the Skullyville Constitution. The Council, however, received the results of the election in time to act. On October 24, 1859, having learned that the "voice of the people through the ballot box" had been "almost unanimous" in favoring a convention, the Council authorized a convention to meet at Doaksville on January 11, 1860, with authority either to amend the Skullyville Constitution or to write a new one. Convention delegates were chosen at a special election set for the first Wednesday in December, 1859, in the "same apportionment" as the Choctaw House of Representatives. Ten days following the adjournment of the Convention, the Governor--Basil Leflore, who had succeeded Tandy Walker--was instructed to call an election by which the voters could ratify or reject the amended or new constitution, whichever resulted.

Since the Doaksville Convention of January 11, 1860, wrote a new constitution, the Skullyville government went out of existence with the installation of officers elected under provisions of the 1860 document. Although the Skullyville government existed only three years and was accepted by only a fraction of the Choctaw people, many laws enacted by its General Council were recognized as official and remained a part of the Choctaw legal code. It did establish a single strong executive, a feature retained by the 1860 constitution. The Skullyville leaders had been forced to restore the office of district chief, but with reduced authority, and the office never regained importance. In fact, with the passage of time, its duties almost disappeared. An effort to abolish the office was defeated in 1880; in 1885 the salary of a district chief was reduced from $150 to $50 a year; but the office was actually continued as an almost empty honor until the end of Choctaw national government. The districts--named for the three great full-blood chiefs of the 1820s, Mushulatubbee, Pushmataha, and Apukshunnubbee--continued to serve as convenient administrative units for schools, the courts, apportionment of Senators, distribution of members of the Council on committees and delegations, and the collection and dispersal of Choctaw funds. Also, it was the Skullyville government which adopted the official seal of the Choctaw Nation, with its bow, crossed arrows, and combined pipe and hatchet which now forms part of the Great Seal of the State of Oklahoma.

VI

A Government of the People: the Constitution of 1860

With very few amendments, the document written by the convention which met at Doaksville on January 11, 1860, remained the fundamental law of the Choctaw Nation until its absorption into the state of Oklahoma at the turn of the century. One observer stated that the government installed in 1860 was modeled on that of the state of Mississippi, just as the editor of the Choctaw Intelligencer had believed that the Constitution of 1850 was influenced by the example of the state of Arkansas. It is undoubtedly true that the Choctaw constitution-writers were influenced by their study of the governments of the United States and Mississippi, Arkansas, and other states. But when they wrote the one at Doaksville in 1860 they also had the advantage of their own experience in constitution-writing--in 1826, 1834, 1838, 1842, 1850, 1857, and 1858--and were aware of the type of government which the majority of the Choctaw people wanted and under which they would feel secure.

Twenty delegates drafted the Doaksville Constitution of 1860. George Hudson, a mixed blood from Eagletown in the Apukshunnubbee District who had played a major role in arranging the compromise of 1858, served as president of the convention, but no records were found to indicate who were the driving forces in writing the document. Included among the other delegates were men with surnames such as Pitchlynn (not Peter, who was in Washington at the time but probably his son, Lycurgus), Folsom, Dukes, Leflore, Gardner, Nail, Willis, and Watson. Only one obvious Choctaw name, Pistambee, was listed. Joseph Dukes, who had arranged for the printing of the 1850 constitution at Doaksville, and Joseph Pitchlynn Folsom, an 1854 graduate of Dartmouth College who in 1869 edited an excellent printing of the Choctaw constitution and laws, were both delegates to the convention and probably played leading roles in the writing of the constitution. Folsom's edition of the 1860 constitution, popularly called the "J. P. Code," was printed in New York by William P. Lyon and Son in 1869 and, for general use by the Choctaws, replaced an earlier edition of 1861. The title page of this 1861 printing listed "Boggy Depot, Choctaw Nation," as the place of publication, and "J. Hort Smith, Proprietor of the National Register" as the printer. The June 1, 1861, issue of the *National Register* advertised for "two practical printers to assist in printing the laws of the Choctaw Nation." According to Lester Hargrett, the printing was completed in July, 1861, and constituted the "only volume of Indian session laws now known to have been printed within the jurisdiction of the Confederate States of America."

The 1860 constitution followed the pattern set by the Constitution of 1834 and continued in succeeding constitutions. First came an introductory section, containing a preamble inspired by that of the United States Constitution, which also fixed the boundaries of the Nation in detail. For some reason, whereas the earlier constitutions began with "We the people," the 1860 document read, "We the representatives of the people." Perhaps this indicated that the 1860 constitution writers were intensely aware that their work had to be ratified by popular vote. Article I was a bill of rights, which included twenty-one sections as compared with eight or nine sections in the earlier constitutions. The continuing location of the bill of rights in a position of emphasis as the first article in each successive Constitution and the increase in the number of individual rights listed in succeeding years indicates something important about the leadership of the Choctaw Nation. Perhaps educated mixed-blood Choctaw leaders were influenced by such concepts of Jeffersonian-Jacksonian Democracy as "let the people rule"; but it is likely that they, as well as the full bloods, were deeply affected by the Indian principle that a chief was the servant, not the master, of his people, and that any government was intended to serve the people and not govern them arbitrarily. An educated Choctaw like Joseph P. Folsom, a graduate of Dartmouth College who was of three-quarters Choctaw blood, was a prime example of a Choctaw citizen whose political thinking would have been subject to both white and Indian influences.

In 1860, Article II, following the example set in 1834, dealt with the distribution of governmental powers among the three departments of government, legislative, executive, and judicial. The wording, designed to insure a balance of power among the three departments, was exactly the same as that used in 1834. The only variation had been in 1838 when a military department was decreed and put on an equal footing with the original three departments of government. The inherent danger of such a governmental component, equal in power to the three basic departments universally recognized in democratic governments, must have been realized by 1842, since the military power was relegated to its proper place by the constitution written in that year. It is not clear that any real attempt was ever made to organize a "military department" as such, but sections 21 and 22 of Article VI of the 1842 Constitution had provided that a "militia" was to be organized and controlled by the general council. "The Chief" (since there was no principal chief at the time, this must have meant any district chief) was given the power by law to call out the militia to "execute the laws of the Nation," suppress insurrection, or repel invasion. This subordination of the militia to the authority of the general council was continued in Article VIII of the Constitution of 1860. The wording was practically the same as that used in 1842.

As in the previous constitutions, in 1860 Article III authorized a legislative body designated the general council. As had been the case since 1842, the council was divided into a senate and a house of representatives. Each of the three Choctaw districts was allocated four senators, so that Apukshunnubbee District, whose population of about eight thousand in 1855 constituted almost half the total for the Choctaw Nation, could always be out-voted by joint action of the senators from the two smaller districts. In the house of representatives each county was allowed at least one member for each one thousand population, plus an additional member for each "fractional number of five hundred or more citizens . . . ." Seven of the sixteen counties, whose populations were less than one thousand--in 1855 these ranged from 174 in Jack's Fork County to 826 in Nashoba County--were each allotted one member, as were the five counties with populations of more than 1,000 but less than 1,500. Only four counties--Kiamichi (2,282), Towson (1,724), Skullyville (1,694), and Blue (1,685)--qualified for two representatives. The result was that the two smaller districts qualified for six representatives each and could outvote the eight representatives from Apukshunnubbee District when they united. This imbalance of population corrected itself somewhat after the Civil War. The first two railroads into the Choctaw Nation, which completed north-south lines through the Mushulatubbee and Pushmataha districts in 1872 and 1887, caused a shift of population to the western section of the Choctaw Nation at the expense of the Apukshunnubbee District. Since the coming of the railroads also triggered a flood of non-Indian intruders, legal and illegal, which eventually ended the semi-independent status of the Choctaw Nation, the imbalance of representation in the Choctaw council was soon buried beneath a host of greater problems.

The earlier Choctaw constitutions had specified annual terms for members of the one-house council. When the general council became bicameral in 1842, the one-year term was retained for the representatives and two-year terms were authorized for senators. The Skullyville Constitution of 1857 lengthened the terms for representatives to two years; for senators the terms became four years, with staggered elections provided so that half of the senate would be chosen every two years. The compromise Constitution of 1860 returned to the more democratic tenures by which the representatives were forced to seek approval of the people annually and all the senators every two years. Perhaps this was a concession to the conservative Choctaw faction in return for their approval of a single principal chief. Annual elections made it easier to keep in office a council with a fresh mandate from the Choctaw people and thus restrain any chief who might exhibit dictatorial tendencies. The 1860 constitution once more evinced the native Choctaw concept--actually true of most primordial Indian societies--that their society was horizontal, not vertical, that all people were equal regardless of rank or title. Or rather, that all male citizens of voting age were equal; the political rights of women and blacks were, of course, severely restricted and subject to unquestioned control of the male citizens.

None of the Choctaw constitutions mentioned educational requirements for government officials, not even legal training for judges and prosecuting attorneys, but age and residence limits were often set for both officials and voters. The Constitution of 1834 had set age and residence requirements for voters and government officials which were changed only slightly by succeeding constitutions. The voting age was set at sixteen by the first three constitutions. In 1850 it was raised to eighteen and then to twenty in 1857. In 1860 it was returned to eighteen, where it remained until the end of government under a Choctaw constitution. The earlier constitutions, in addition to requiring that a voter be a citizen or "inhabitant" of the Choctaw Nation, had specified a residence of one month in the District. With the organization of counties in 1850, the residence requirement for voters--"free male citizen[s]"--was increased to six months in the Nation and one month in the "county or district." This last provision is confusing. Presumably a "free male citizen" could vote in any county of a district in which he had resided for a month. This requirement was continued in 1857 and the 1860 Constitution, Section 7, Article VII, stated that:

> Every free male citizen [aged eighteen] . . . who shall have been a citizen . . . six months, shall be deemed a qualified elector, and . . . entitled to vote in the county or district where he may have . . . resided at least one month preceding the election . . . .

Curiously, Section 7, Article III, in the 1834 document stated specifically that "all white men having Choctaw families" who had resided in the Nation for a year should be "deemed qualified electors." This statement was not repeated in later constitutions. Presumably such "intermarried citizens" were later simply included among "male citizens." The Constitution of 1842 did specify that a senator or district chief must be "natural born," but this requirement was not repeated in either 1857 or 1860. The practical situation was that rarely, if ever, was any one not of some Choctaw blood elected to any office of importance.

The age, residence, and other qualifications required for higher office in the government of the Choctaw republic varied little between 1834 and 1860. Twenty-one was the minimum age required to qualify for election to the unicameral council in 1834 and 1838 and to the lower house of the bicameral council in 1842. The minimum age for a senator was set at thirty years in 1842, a requirement which was not changed in later constitutions. The residence requirement for a representative at first was a mere month in the district which elected him. The 1857 and 1860 constitutions increased this to six months in the district and one month in the county. A senator was required to be an "inhabitant" of the district he represented and a Choctaw citizen for a specified time. The 1842 Constitution, probably an oversight, set no time of residence for a senator; that of 1850 required one year; that of 1857, two years in the Nation and one year in the district; and the 1860 document reduced the time to one year in the Nation and six months in the district.

The minimum age required for election as district chief was set at thirty in 1834 and was not changed by the Choctaws during a quarter century of constitution writing. Thirty was also the minimum age set for the governor in 1857 and the principal and district chiefs in 1860. The residence requirement for a chief was first set at one year in the district; however, when the single executive was instituted--"governor" in 1857 and "principal chief" in 1860--the requirement was raised to five years residence in the Nation and applied to the district chiefs as well. Incidentally, from 1834 to 1857 the term of office for district chiefs was set at four years, with a two-term limit which specified that after a chief had served eight consecutive years, he could not be re-elected until a four-year term had elapsed. The office of "speaker," assistant to a district chief and which had been a carry-over from prehistoric Choctaw government, ceased to exist after 1857. This office should not be confused with that of the presiding officer of the lower house of the general council, also called the "speaker." Both the Skullyville Constitution and and the compromise Constitution of 1860 reduced the chief executive's term to two years. The governor under the Skullyville Constitution was limited to serving only four years out of "any term of six years," while the 1860 document provided that neither the principal chief nor the "three subordinate district chiefs" could be "eligible for the same office for more than two terms in succession."

Other national executive officials in 1860, sometimes referred to as the "governor's cabinet," were the national secretary, national treasurer, national auditor, and national attorney. Although the general council put them under the strict supervision of the principal chief, these four did not constitute a cabinet in the true sense because they were elected by popular vote for two-year terms in the years between those in which the principal chief was elected. To be a true cabinet, of course, their terms should have coincided with that of a chief to whom they owed their positions by appointment. These four positions had first been established as elective offices by the Skullyville Constitution and were continued in the Constitution of 1860. They were the outgrowth of similar district offices which had developed before the centralizacion of the Choctaw executive under the Constitutions of 1857 and 1860. The office of "secretary" was originally mentioned in the Constitution of 1834, when each district chief was given the "power to appoint his own speaker and district secretary." In 1838 the office of district speaker was made elective, while that of district secretary remained appointive. First mention of the offices of treasurer and auditor appear in the Constitution of 1842, which provided that the General Council should elect such officials for each district. Article VII, Section 25, of the 1842 document also speaks of the "Treasurer of this Nation" being required to make bond, along with the district treasurers, but such an official is not mentioned elsewhere. The district secretary remained an appointive office in 1842 and 1850, and in the latter constitution was also instructed to act "as clerk of the circuit court of the district . . . ." District attorneys were first authorized in 1842, and continued as elected district officials until the end of the nineteenth century. The fate of the district offices of secretary, treasurer, and auditor is not clear, and no mention of them is found in the Constitution of 1860. From 1860 until 1906 the chief function of these officers were: the national secretary had charge of the great seal and public documents; the national treasurer controlled and disbursed tribal funds; the national attorney gave legal advice to the principal chief and other national officials; and the auditor, originally intended to head the financial administration of the Nation, actually became little more than a bookkeeper.

The evolution of specific age and residence qualifications for judges also illustrates the tendency toward a more democratic government evinced by successive Choctaw constitutions. The section of the 1834 constitution concerning courts was brief, vague, and confusing. It read:

> The judicial power of this nation shall consist of three or more . . . courts in each district and the judges of said courts shall be composed of three persons who shall receive their appointments from the District Chief and shall hold their office/s/ during good behavior.

That's all. It is unlikely that many courts under this provision, if and when established, were effective judicial institutions. Of necessity, the Constitution of 1838 was more specific. The only courts were still at the district level, however, and the judges were still appointed to serve during good behavior. No age nor residence requirements for judgeship were listed in either 1834 or 1838, such specifications not appearing until 1842. As previously noted, the constitution written in 1842 established the first "National Court," a supreme court to be comprised of a "National Judge" and the "Supreme Judges of the several Districts," who were to hold court at "Nanihwaiya during the Session of the General Council."

By 1850, with the organization of county governments and courts, the Choctaw judicial system had almost completed development into the structure it retained until the dissolution of the Choctaw Nation. As stated earlier, the Constitution of 1850 had provided for a "Supreme National Court" of four justices (this included one for the Chickasaw District), of whom three constituted a quorum and a majority was required for a decision. To qualify, supreme judges had to be at least thirty years of age and were elected by the general council, no longer to serve during good behavior but for four-year terms. With few exceptions, the supreme court had only appellate jurisdiction. At the district level only one circuit judge was authorized in 1850 to serve all four districts, so that the newly-formed county courts became the base on which the judicial system rested. This one circuit judge, to be aged at least twenty-five, was elected by the general council for a two-year term and "exercised superintending control over the County Courts." The county courts, with judges elected by the people each two years--no age or other qualification was required for county judge except residence in the county--were also the probate courts which handled wills, estates, guardianships, and related matters. Divorces, however, were the concern of the circuit court.

The Constitution of 1857 (Skullyville) made some short-lived changes in the Choctaw judicial system. For example, in 1857 the supreme court consisted merely of the judges of the three district courts sitting as a unit; in 1860 the supreme court again became a body of three supreme justices, one from each district, who were elected by the general council for terms of four years each, as had been provided by the Constitution of 1850. In 1857 the single circuit judge, who served all four districts as provided by the Constitution of 1850, was replaced by three judges, one for each district. The three circuit courts established in 1857 were retained in 1860, but each judge was elected every four years by the voters of his district rather than by the general council. The 1857 constitution temporarily replaced the county courts with "Courts of Probate" and a "competent number of justices of the peace and constables." These probate judges, justices of the peace, and constables were elected by the voters of their respective counties every two years. Sitting together the justices of the peace in each county constituted a "Board of Police," whose presiding officer was the judge of the probate court. Jurisdiction of this Board covered "roads, highways, ferries and bridges, and all other matters of county police."

For most Choctaw counties in the 1800s this constituted a more complex system of local government than was needed or desired, and the 1857 organization of county government was not retained in 1860. The system of county courts, as established in 1850, was restored, and justices of the peace and boards of police disappeared from Choctaw county government. The Constitution of 1850, which first authorized the organization of counties, had named no local officials except a county judge, who presided over the county court and supervised the elections. Presumably law enforcement in each county was provided at that time by one or more lighthorsemen, appointed by the district chiefs, who also served as officers of the county courts. The 1857 constitution was the first to mention county officials other than the county judge, stipulating that each county should elect for two-year terms a "Sheriff, a Coroner, a Treasurer, and Ranger." The 1860 compromise document provided for the biennial election of a sheriff and ranger in each county but made no mention of a coroner or county treasurer. Thus after 1860 each county elected three officials, a judge, a sheriff, and a ranger. Only the ranger's office would be unnecessary today. The county ranger was important in the pastoral life of the nineteenth century Choctaw Nation, however, as the supervisor and handler of numerous stray livestock, including cattle and oxen, horses, mules, hogs, sheep, and goats, from among those which regularly grazed the open range. Another very important official, the county clerk, was not elected but was appointed by the county judge. This office dated back to 1850, when county courts were first organized. The county court clerk was at first probably an ad hoc appointment by the county judge to keep records of particular court sessions or elections. In October, 1860, the general council enacted legislation which defined the duties of the county clerk in detail and specified that he should also be the county treasurer. The clerk-treasurer continued to be appointed by the county judge and served for the same two-year term as did the judge.

With the establishment of the compromise government in October, 1860, the Choctaw people had not only weathered the constitutional crisis of 1857-1860 successfully, but they had also united themselves under a workable government which was able to withstand outside pressures and prevent the termination of their semi-independent nationhood for another forty years. Their long struggle for a democratic constitutional government did not divide and weaken the Choctaw commonwealth but unified and strengthened it. Indeed, the Constitution of 1860 established a very effective government which retained the traditional division of the Nation into three districts but also continued the centralizing tendency of the Skullyville Constitution by instituting the office of principal chief and investing it with enough power to permit an efficient executive. The authority of the single executive was so restricted, however, by such provisions as that limiting his tenure to no more than two terms (four years) in succession, that no "governor," as the principal chief came to be called in everyday usage, was able to entrench himself in office and build a viable political machine.

Other factors in Choctaw politics which inhibited development of an oppressive Choctaw government were the existence of a lively two-party system and frequent elections. The result was an annual check--members of the House of Representatives were elected yearly, other officials for staggered biennial terms--by the opposition party on the party in power. The Choctaws further strengthened the practical operation of their government by their habit of electing a former principal chief to a seat in the general council, after his defeat or completion of the constitutional limit of two terms, where the prestige and experience gained as chief executive made him a leading member. The result was that many former principal chiefs remained active in national politics for most of their lives. Several ex-chiefs also sought election to a third term after they became eligible, but Green McCurtain was the only one who succeeded (1896-1900 and 1902-1906).

It can be argued that the unity achieved by closing ranks behind the compromise government of 1860 fostered a political toughness which enabled the Choctaw Nation to weather successfully a number of crises in the late nineteenth century and thus to keep intact their right of self-government. The first such crisis was brought on by the American Civil War. At the close of that conflict and as a result of its alliance with the defeated South, the existence of the Choctaw Nation was threatened in 1866 when a new treaty had to be negotiated with the United States. The Federal government reaffirmed, in Article X of a joint Choctaw-Chickasaw pact, that for each of these two nations it would recognize:

> . . . all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw Nations, entered into prior to the late rebellion, and in force at that time . . .; and further /̲ agree_7 to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation, from and after the close of the fiscal year ending on the thirteenth of June, in the year eighteen hundred and sixty-six.

This was a victory for the Choctaws and Chickasaws, because forces in the nearby states were clamoring for the complete dissolution of their governments, the allotment of their lands, and their immediate absorption into a territory or state whose population would be mostly non-Indian.

In order to combat the pressure for dissolution of their governments, the Choctaws and Chickasaws agreed in 1866 to some very detailed treaty provisions which, if they had been carried out, would have led to the results which they feared. In Article VIII of the Treaty of 1866, the Choctaw and Chickasaw commissioners agreed to the inclusion of their nations in a "Territory of Oklahoma," whose "Governor" would have been a "Superintendent of Indian Affairs" appointed by the President of the United States. The Choctaw words *Okla Homa* (red people) were suggested at this time as the name for the proposed territory by Allen Wright, one of the official Choctaw delegates involved in preparation of the Treaty, and the term, "Territory of Oklahoma," was used in Article VIII, Section 10, of the 1866 treaty. Also specified was the immediate survey and allotment of lands in the Choctaw and Chickasaw nations. All surplus land after allotment was to become available for white settlement, with the proviso that Negro colonization would be confined to the western third of the Choctaw-Chickasaw country, the area popularly known as the Leased District. The Indians understood that any settlement by non-Indians moving into the new territory would be controlled by the Choctaw and Chickasaw governments. Similar provisions, althought not as detailed, were included in the 1866 treaties with the Cherokees, Creeks, and Seminoles. But no such territory was organized at this time, no land was surveyed and allotted, and no non-Indian settlement resulted. The opposition of the Choctaws and other nations of the Five Civilized Tribes to this change in their political and economic status (it had already been attempted for the Choctaws by the Skullyville Constitution in 1857) was successful and their self-government was continued for another forty years and with their treaty rights intact.

Could a divided Choctaw Nation have continued in 1866 to resist successfully the pressure from the United States to end their nationhood?

It is doubtful. Their Nation survived this and other crises until the 1890s, by which time nothing could have saved their separate nationhood. Between 1866 and 1907 the Choctaw land and that of the other Five Civilized Tribes was overrun by a flood of non-Indians, just as the land of their ancestors east of the Mississippi had been engulfed by whites in the first quarter of the nineteenth century. In the early 1800s it had been possible for the Nation to survive by removal across the Mississippi River to the West, but in the early 1900s there was no place left to go. Some full-blood groups did make an effort to move to Mexico, but nothing came of it. So the Choctaws and other Indians accepted their fate as gracefully as possible and in 1907 became citizens of the new state of Oklahoma and, incidentally, of the United States.

The Choctaw and other Indian nations of pre-statehood Oklahoma still survive in the heritage of the region, especially in southeastern Oklahoma. Obvious evidence of the Choctaw legacy in Oklahoma is found today in many place names, beginning with Oklahoma itself, and in buildings such as the council house at Tuskahoma and the old church building at Wheelock in McCurtain County. A "Choctaw Nation of Oklahoma" still exists to manage the tangible resources of the Choctaws, which include land and other assets from the past. The head of the present Choctaw Nation is still a principal chief, now elected by Choctaw voters for four-year terms in lively elections, to represent his people and to work to protect their interests. The intangible aspects of the Choctaw heritage in Oklahoma are impossible to measure, but surely an abiding interest in good government, a government of the people, by the people, and for the people, is part of the tradition exemplified for us today by the Choctaw Republic of the nineteenth century.

APPENDIX A

CONSTITUTION
OF THE
CHOCTAW NATION

Doaksville

January 11, 1860

We, the representatives of the people inhabiting the Choctaw Nation, contained within the following limits, to wit: Beginning at a point on the Arkansas river, one hundred paces east of old Fort Smith, where the western boundary line of the State of Arkansas crosses the said river, and running thence due south to Red River; thence up Red River to the point where the meridian of one hundred degrees west longitude crosses the same; thence north along said meridian to the main Canadian river; thence down said river to its junction with the Arkansas river; thence down said river to the place of beginning, except the territory bounded as follows, to wit: Beginning on the north bank of Red River, at the mouth of Island Bayou, where it empties into Red River, about twenty-six miles on a straight line, below the mouth of False Washita; thence running a northwesterly course along the main channel of said Bayou, to the junction of the three prongs of said Bayou, nearest the dividing ridge between Washita and Low Blue rivers, as laid down on Capt. R. L. Hunter's map; thence northerly along the eastern prong of Island Bayou to its source; thence due north to the Canadian river; thence west along the main Canadian to the ninety-eighth degree of west longitude; thence south to Red River; and thence down Red River to the place of beginning; *Provided, however,* if the line running due north from the eastern source of Island Bayou, to the main Canadian, shall not include Allen's or Wa-panacka Academy within the Chickasaw District; then an offset shall be made from said line, so as to leave said Academy two miles within the Chickasaw District; north, west, and south from the lines of boundary, said boundaries being the limits of the Chickasaw District--assembled in Convention at the town of Doaksville, on Wednesday, the eleventh day of January, one thousand eight hundred and sixty, in pursuance of an act of the General Council, Approved Oct. 24, 1859, in order to secure to the citizens thereof the right of life, liberty and property, do ordain and establish the following Constitution and form of government, and do mutually agree with each other to form ourselves into a free and independent Nation, not inconsistent with the Constitution, treaties and laws of the United States, by the name of the Choctaw Nation.

DISTRICT BOUNDARIES.

For the convenience and good government of the people of the Choctaw Nation, we do make, ordain and establish four Districts in this Nation, to be known by the following names and boundaries, viz: Mosholatubbee District, Pushamataha District, Apuckshunnubbee District, and Hotubbee District.

The boundary line of Mosholatubbee District shall begin near old Fort Smith, where the Arkansas boundary line crosses the Arkansas River; thence up said river to the Canadian Fork; thence up said Canadian to where the Chickasaw District boundary strikes the same, as defined by the Treaty of 1855; thence along the said boundary, to where it strikes the dividing ridge, between the Canadian and Red Rivers; thence easterly along said dividing ridge to the western boundary of the State of Arkansas; thence along said Arkansas line to the beginning.

The boundary of Apuckshunnubbee District shall begin on Red River, where the Arkansas State line strikes the same; thence running up said river to the mouth of Kiamichi; thence up said river to the mouth of Jack's Fork; thence up said Jack's Fork to the old military road; thence along said road to the boundary line of Mosholatubbee District, on the top of the dividing ridge, between the Arkansas and Red Rivers; thence easterly along said boundary to the western boundary line of the State of Arkansas; thence along the said State line to the beginning.

The boundary of Pushamataha District shall begin on Red River, at the mouth of Kiamichi; thence running up said Red River to the mouth of Island Bayou, to where the eastern boundary line of the Chickasaw District strikes said river, as defined by the Treaty of 1855; thence along said boundary line to the dividing ridge between the Canadian and Red Rivers; thence easterly along said ridge to the line of Mosholatubbee District, on the top of the dividing ridge, to where the District line of Apuckshunnubbee District intersects Mosholatubbee District; thence southerly along said line to the beginning.

The boundaries of Hotubbee District shall be embraced within the limits of the ninety-eighth and one hundredth degree of west longitude, and between Red River and Canadian river, known as the "Lease Land."

ARTICLE I.

DECLARATION OF RIGHTS.--That the general, great and essential principles of liberty and free government may be recognized and established, we declare:

Sec. 1.--That all free men, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive, separate public emolument or privileges from the community, but in consideration of public services.

Sec. 2.--That all political power is inherent in the people, and all free government are founded on their authority and established for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper or expedient.

Sec. 3.--There shall be no establishment of religion by law. No preference shall ever be given by law to any religious sects, society, denomination or mode of worship. And no religious test shall ever be allowed as a qualification to any public trust under this government.

Sec. 4.--No human authority ought in any case whatever to control or interfere with the rights of conscience in matters of religion.

Sec. 5.--No person shall for the same offence be twice put in jeopardy of life or limb, nor shall any person's property be taken or applied to public use without the consent of the General Council, and without just compensation being first made therefor.

Sec. 6.--No person shall ever be appointed or elected to any office in this nation for life or during good behaviour, but the tenure of all offices shall be for some limited period of time, if the person appointed or elected thereto so long behave well.

Sec. 7.--The right of trial by jury shall remain inviolate.

Sec. 8.--Every citizen has a right to bear arms in defence of himself and his country.

Sec. 9.--That the printing-press shall be free to every person, and no law shall ever be made to restrain the rights thereof. The free communication of opinion is one of the inviolable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for abuse of that liberty.

Sec. 10.--That the people shall be secure in their persons, houses, papers and possessions from unreasonable seizures and searches, and that no warrant to search any place or to seize any person or thing shall issue, without describing the place to be searched and the person or thing to be seized as nearly as may be, nor without probable cause supported by oath or affirmation. But in all cases where suspicion rests on any person or persons of conveying or secreting whisky or other intoxicating liquors, the same shall be liable to search or seizure as may be hereafter provided by law.

Sec. 11.--That no free man shall be taken, or imprisoned, or disseized of his freehold liberties or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, and property, but by the judgment of his peers or the law of the land.

Sec. 12.--No person shall ever be imprisoned for debt.

Sec. 13.--That excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 14.--That all courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

Sec. 15.--That the citizens have a right in a peaceable manner, to assemble together for their common good, to instruct their representatives, and apply to those invested with the powers of the government for redress of grievances, or other proper purposes, by petition, address or remonstrance.

Sec. 16.--That no power of suspending laws shall be exercised except by the General Council or its authority.

Sec. 17.--That in all criminal prosecutions, the accused hath a right to be heard by himself or counsel, or both, to demand the nature and cause of the accusation, to be confronted by the witnesses against him, to have a compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment or information, a speedy and public trial by an impartial jury of the county or district where the offence was committed; that he cannot be compelled to give evidence against himself nor can he be deprived of his life, liberty, or property, but by due course of law.

Sec. 18.--That all prisoners shall, before conviction, be bailable by sufficient securities, except for capital offences, where the proof is evident or the presumption great, and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Sec. 19.--That the General Council shall have power to pass general laws in regard to the collection of fines, bonds, forfeitures, and court fees, and direct the manner of such collection.

Sec. 20.--No property qualification for eligibility to office, or for the right of suffrage, shall ever be required by law in this Nation.

Sec. 21.--No conviction for any offence shall work corruption of blood and forfeiture of estate. The General Council shall pass no bill of attainder, retrospective law, nor law impairing the obligation of contracts.

ARTICLE II.

Distribution of Power.

Sec. 1.--The powers of government of the Choctaw Nation shall be divided into three distinct departments, and each of them confined to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another.

Sec. 2.--No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereafter expressly directed or permitted by the General Council.

ARTICLE III.

Legislative Department.

Sec. 1.--The legislative power of this Nation shall be vested in a General Council which shall consist of a Senate and House of Representatives, and the style of their laws shall be, "Be it enacted by the General Council of the Choctaw Nation assembled."

Sec. 2.--The Senate of the Choctaw Nation shall be composed of four Senators from each district, chosen by the qualified electors thereof, for the term of two years.

Sec. 3.--No person shall be a Senator who shall not have attained the age of thirty years and been one year a citizen of this Nation, and who shall not, when elected, be an inhabitant of that District at least six months preceding his election for which he shall be chosen.

Sec. 4.--The House of Representatives shall be composed of members chosen every year by the qualified electors in the several counties of each district, at the ratio of one representative to every one thousand citizens; nevertheless when there is a fractional number of five hundred or more citizens in any county, they shall be entitled to one additional representative; but when the population of any one of the counties shall not reach the ratio of one thousand, they shall still be allowed one representative.

Sec. 5.--In case of death, resignation, or inability of any of the senators or representatives, the Principal Chief shall have the power to make temporary appointments and fill vacancies that may occur in any of the counties.

Sec. 6.--No person shall be a representative, unless he be a citizen of this Nation, and shall have been an inhabitant thereof six months next preceding his election, and the last month thereof a resident of the county for which he shall be chosen and shall have attained the age of twenty-one years.

Sec. 7.--The House of Representatives, when assembled, shall choose a Speaker and its other officers, and the Senate shall choose a President and its officers, and each shall judge of the qualifications and elections of its own members, but a contested election shall be determined in such manner as shall be directed by law. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

Sec. 8.--Every bill which shall have passed both houses of the legislature shall be presented to the Principal Chief; if he approve, he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it; if, after such re-consideration, two-thirds of the members present shall agree to pass the bill, it shall be sent with the objections to the other house, by which it shall likewise be re-considered; if approved by two-thirds of the members present of that house it shall become a law, but in such case the vote of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill be entered on the journals of each house respectively; if any bill shall not be returned by the Principal Chief within three days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it. Every bill presented to the Principal Chief one day previous to the adjournment of [illegible] legislature, and not returned to the house in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the Principal Chief.

Sec. 9.--Each house may determine the rules of its own proceedings, punish members for disorderly behavior, and with the consent of two-thirds, expel a member, but not a second time for the same cause.

Sec. 10.--Each house shall keep a journal of its proceedings and publish the same, and the yeas and nays of the members of either House, on any question, shall at the desire of any three members present, be entered on the journal.

Sec. 11.--Each house may punish by imprisonment, during the session, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not at any one time exceed forty-eight hours.

Sec. 12.--Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

Sec. 13.--Each member of the General Council shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall have been made.

Sec. 14.--No person who hath heretofore been, or hereafter may be a collector or holder of public moneys, shall have a seat in either house of the General Council, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

Sec. 15.--The first election for Senators and Representatives shall be general throughout the Nation, and shall be held on the first Wednesday in August, 1860, and thereafter there shall be biennial elections for Senators.

Sec. 16.--Senators and Representatives shall, in all cases, except of treason, felony, or breach of the peace, be privileged from arrest during the session of the General Council, and in going to and returning from the same.

ARTICLE IV.

Judicial Department.

Sec. 1.--The judicial power of this Nation shall be vested in one Supreme Court, in Circuit and County Courts.

Sec. 2.--Until Hotubbee District shall be duly organized, and officers elected therein under this Constitution, the Supreme Court shall be composed of three Supreme Judges, one to be chosen from Apuckshunubbee

District, one from Pushamataha District, and one from Mosholatubbee District, one of whom shall be styled, Chief Justice, and two of whom shall constitute a quorum to do business.

Sec. 3.- The Supreme Court shall have no jurisdiction but such as properly belongs to a court of errors and appeals.

Sec. 4.--The Supreme Judges shall have power to issue writs and other process necessary to the exercise of their appellate jurisdiction, and shall have original jurisdiction only in such cases as may hereafter be provided by law, and shall be conservators of the peace throughout the Nation.

Sec. 5.--The Circuit Courts shall be composed of one Circuit Judge in each District, and shall have original jurisdiction in all criminal cases which shall not be otherwise provided for by law, and exclusive original jurisdiction of all crimes amounting to felony, and original jurisdiction of all civil cases which shall not be cognizable before the Judges of the county, until otherwise directed by law, and original jurisdiction in all matters of contracts, and in all matters of controversy where the same is over fifty dollars. It shall hold its term at such times and places in each district as are now specified by law or may hereafter be provided.

Sec. 6.--The Circuit Courts shall exercise a superintending control over the County Courts, and shall have power to issue all necessary writs and process to carry into effect their general and specific powers under such regulations and restrictions as may be provided by law.

Sec. 7.--The Circuit Judge in each District shall be elected by the qualified voters of their respective Districts, and the General Council by a joint vote of both houses shall elect the Supreme Judges. Any person receiving the highest number of votes cast shall be elected.

Sec. 8.--The Judges of the Supreme Court shall be at least thirty years of age, and the Circuit Judge of the Circuit Courts shall be at least twenty-five years of age before they shall be eligible to hold the office, and when elected they shall serve for the term of four years from the date of their commission; they shall appoint their own clerks under such provisions as the law may prescribe.

Sec. 9.--The Judges of the Supreme Court and Circuit Courts shall at stated times receive such compensation for their services, which shall not be increased or diminished during the term for which they are elected, as may be determined by law. They shall not be allowed any fees or perquisites of office.

Sec. 10.--There shall be a court established in each county of this Nation, to be called County Courts, which shall have jurisdiction in all matters relative to disbursement of money for county purpose, and in every other case that may be necessary to the internal improvements and local concerns of their respective counties.

Sec. 11.--The Judges of the County Courts shall in no case have jurisdiction to try and determine any criminal case or penal offence against this Nation, but may sit as examining courts, and commit, discharge, or recognize to the court having jurisdiction for further trial of all offences against the peace and dignity of this Nation; for the foregoing purposes, they shall have power to issue all necessary writs and process, to bind any person to keep the peace, or to give security for his good behavior.

Sec. 12.--The county Judges shall be elected by the qualified electors of their respective counties, and shall be commissioned by the Principal Chief, and shall hold their office for the term of two years.

Sec. 13.--No Judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected to him by affinity or consanguinity within such degrees as may be prescribed by law, or in which he may have been of council, or have presided in any Circuit or County Courts, except by consent of all the parties. In case any or all of the Judges of the Supreme Court shall be thus disqualified from presiding on any cause, or causes, the Court or Judges thereof shall certify the same to the Principal Chief of the Nation, who shall immediately commission the requisite number of men learned in the law for the trial and determination thereof. But in case such disqualification should take place in any of the Circuit or County Judges, the Circuit or County Judge shall have the power to appoint a substitute for that particular case for which he may be disqualified.

Sec. 14.--Judges shall not charge juries with regard to matter of fact, but may state the testimony and declare the law.

Sec. 15.--There shall be a prosecuting Attorney elected in each District by the qualified electors of their respective District whose compensation and term of service shall be prescribed by law.

Sec. 16.--The General Council shall have power by law to prescribe the manner of holding and determining suits in the Circuit and County Courts and the manner of granting appeals.

Sec. 17.--The County Judges in addition to their respective duties that may be required of them by law, shall be Judges of the Courts of Probate and have such jurisdiction in matters relative to the estate of deceased persons, executors, administrators and guardians as may be prescribed by law, until otherwise directed by the General Council.

Sec. 18.--Writs and other process shall run in the name of the Choctaw Nation, and bear test and be signed by the Clerks of their respective Courts from which they issue, and all indictments shall conclude against the peace and dignity of the Choctaw Nation.

Sec. 19.--The General Council shall provide by law for determining contested elections of County Judges.

Sec. 20.--The Supreme Court shall be held twice in each year at the Seat of Government of the Choctaw Nation.

Sec. 21.--The County Judges shall appoint their own Clerks who shall act as Treasurer of the County.

ARTICLE V.

Executive Department.

Sec. 1.--The supreme executive power of the Choctaw Nation shall be vested in one Principal Chief, assisted by three subordinate District Chiefs, who shall hold their respective offices for the term of two years from the time of their installation. But they shall not be eligible for the same office for more than two terms in succession.

Sec. 2.--The Principal Chief of the Choctaw Nation shall be elected by the qualified electors of the Choctaw Nation, and the subordinate Chiefs of the Choctaw Nation shall be elected by the qualified electors of their respective Districts on the first Wednesday in August, Eighteen Hundred and Sixty, and every two years thereafter.

Sec. 3.--The returns of every election for Principal Chief shall be made out, sealed up and transmitted to the Supreme Judges of each District, to be forwarded by him to the National Secretary who shall deliver them to the Speaker of the House of Representatives during the first week of its organization, who shall proceed to open and count the votes in the presence of both houses of the General Council, and the person having the highest number of votes shall be declared Principal Chief by the Speaker. But if two or more shall be equal or highest in votes, then one of them shall be chosen Principal Chief by the joint ballot of both houses of the General Council; but the returns of every election for District and County Officers shall be made out, sealed and transmitted to the Supreme Judge of each District who shall proceed to open, take an abstract, and declare what candidates for District and County Officers are elected, and forward a true copy of the same to the National Secretary who shall file them in his office for safe keeping.

Sec. 4.--In case of death, resignation or removal of the Principal Chief, the President of the Senate shall exercise the duties of Principal Chief, until the next regular election for that office; but should the vacancy be on account of the inability of the Principal Chief to discharge his duties, the President of the Senate shall exercise the said duties until such inability shall be removed.

Sec. 5.--In case of any vacancy occurring in the office of District Chiefs, the Principal Chief shall have the power to appoint a Chief *pro. tem.* in the District where such vacancy may occur until the next regular election for that office.

Sec. 6.--No person shall be eligible to the office of Principal or District Chief unless he shall have attained the age of thirty years, and have been an inhabitant of the Choctaw Nation at least five years next preceding his election.

Sec. 7.--The Principal Chief shall from time to time give to the General Council information of the state of the Government, and recommend to their consideration such measures as he may deem expedient.

Sec. 8.--The Principal Chief shall take care that the laws be faithfully executed.

Sec. 9.--The Principal Chief may, by proclamation, on extraordinary occasions convene the General Council at the Seat of Government, or at a different place if that have become since their last adjournment, dangerous from an enemy or from contagious disease.

Sec. 10.--In case of disagreement between the two houses with respect to the time of adjournment, the Principal Chief may adjourn them to such a time as he shall think best, not beyond the day of the next meeting of the General Council.

Sec. 11.--All vacancies which may occur in office that are elective by the People or General Council, the Principal Chief shall have the power to fill such vacancies by appointment until the next regular election.

Sec. 12.--No person shall hold the office of Principal or District Chief, and any other office or commission, either in this Nation, or under any State, or in the United States or any power, at one and the same time.

Sec. 13.--The District Chiefs shall have such superintending control over the affairs of their respective districts as may be prescribed by the General Council. It shall be their duty to have the laws properly enforced within their respective limits. They shall from time to time report to the Principal Chief such information respecting the affairs of their Districts, and recommend for his consideration such measures as they may deem expedient.

Sec. 14.--A Sheriff and Ranger shall be elected in each County by the qualified electors thereof, who shall hold their office for the term of two years unless sooner removed. And it shall be the duty of the District Chiefs to appoint a competent number of light horsemen in their respective Districts as may hereafter be provided by law, who shall hold their offices for the term of two years unless sooner removed.

Sec. 15.--The Principal Chief, National Secretary, National Treasurer, National Auditor, and National Attorney, shall reside at or near the seat of government.

Sec. 16.--The Principal Chief shall be head-commander of the militia of this Nation.

ARTICLE VI.

Impeachments.

Sec. 1.--The House of Representatives shall have the sole power of impeaching.

Sec. 2.--All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be on oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 3.--The chiefs and all civil officers shall be liable to impeachment for any misdemeanor in office, but judgment in such case shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit under this Nation, but the party convicted shall nevertheless be liable, and subject to indictment, trial, and punishment according to law as in other cases.

ARTICLE VII.

General Provisions.

Sec. 1.--Until Hotubbee District shall be duly organized, the Principle Chief of the Choctaw Nation shall exercise such authority over the citizens of this Nation, living in that District, as he may deem expedient for the protection of person, life, and property.

Sec. 2.--No person shall be Principal Chief, or Subordinate Chief, Senator, or Representative, unless he be a free male citizen of the Choctaw Nation, and a lineal descendant of the Choctaw or Chickasaw race.

Sec. 3.--The General Council shall have the power to determine what county or counties shall be entitled to elect one or more Senators in the several Districts of this Nation.

Sec. 4.--Members of the General Council and other officers, both executive and judicial, before they enter upon the duties of their respective offices shall take the following oath or affirmation, to wit: I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the Choctaw Nation, and that I will faithfully and impartially discharge, to the best of my abilities, the duties of the office of ___________ according to law. So help me God.

Sec. 5.--The General Council shall have the power to determine the compensation of the Principal Chief, District Chiefs, and other officers of the Nation, which compensation shall not be increased or diminished for the term of years they are elected or appointed.

Sec. 6.--The General Council shall have power by law to specify the manner in which offenders against the laws of this Nation, who may escape into the United States, or into any Indian Nation or from one district into another in this Nation, shall be demanded, apprehended, and arraigned for trial in the several courts of this Nation, having original jurisdiction thereof.

Sec. 7.--Every free male citizen of this Nation who shall have attained to the age of eighteen years, and who shall have been a citizen of this Nation six months, shall be deemed a qualified elector, and shall be entitled to vote in the county or district where he may have actually resided at least one month preceding the election for each and every office made elective in this Nation.

Sec. 8.--All general elections shall be by ballot; and the electors in all cases, except in cases of treason, felony, and breach of the peace, shall be privileged from arrest during their attendance at elections and on going to and returning therefrom.

Sec. 9.--The General Council shall have the power by law to establish one or more precincts in each county in the several districts of this Nation, and prescribe the mode and manner of holding and conducting elections.

Sec. 10.--The oath of office may be administered by any of the Judges of this Nation until the General Council shall otherwise direct.

Sec. 11.--The General Council shall have the power to pass such laws and measures as they shall deem expedient for the general good of the Choctaw people, provided no law be passed or adopted contrary to the provisions of this Constitution.

Sec. 12.--The mode of declaring war in this Nation shall be by at least two-thirds of the members of the General Council in full Council, with the approval of the Principal Chief, unless in case of actual invasion by an enemy, in which case the people shall have the right to defend themselves until the Council is convened by proclamation of the Principal Chief, and measures of defence prescribed.

Sec. 13.--The Principal Chief shall have the power, by and with the advice and consent of the Senate, to appoint Commissioners, or Delegates, to transact such business as may become expedient to the Choctaw Nation, and all other officers whose appointments are not herein or otherwise provided for.

Sec. 14.--The General Council of the Choctaw Nation shall have the power to pass such laws as they may deem expedient to punish rebellion, treason and other high crimes against the Nation.

Sec. 15.--All contested elections for Principal Chief and other officers shall be determined as the law may prescribe.

Sec. 16.--The General Council shall have the power to create by law such regulations and commissions, and appoint Superintendents and such other officers, as the case may be, required for the promotion and advancement of all the schools in this Nation.

Sec. 17.--Eighteen thousand dollars of the interest money arising from the Chickasaw fund, granted to the Choctaws by convention held and concluded at Doaksville, shall be set apart annually for educational purposes, and the remaining seven thousand dollars shall be set apart, annually, to be expended as the law may hereafter direct.

Sec. 18.--Any citizen of this Nation who may find any mine or mines, or mineral waters, shall have exclusive right and privilege to work the same, so long as he may choose, within one mile in any direction from his works or improvements; provided, however, he does not interfere with the rights of the former settler.

Sec. 19.--No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the Civil Department of this Nation, nor shall be allowed his oath in any Court of Justice.

Sec. 20.--The Treasurer of this Nation, together with all other persons who may be intrusted with public money shall be required to give such bond and security as may be prescribed by law.

Sec. 21.--No laws of a general nature, unless otherwise provided for, shall be enforced until sixty days after the passage thereof.

Sec. 22.--No money shall be drawn from the Treasury but in consequence of an appropriation made by law; an accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws, at every regular session of the General Council.

Sec. 23.--That all the provisions in the Constitution, now in existence, and not revised or adopted by this Constitution, are hereby declared null and void; and that any law which may be passed contrary to the provisions herein specified shall be null and void; and all rights and powers not herein granted or expressed shall be reserved unto the people.

Sec. 24.--Divorces from the bond of matrimony shall not be granted but in cases provided for by law.

ARTICLE VIII.

Militia.

Sec. 1.--The General Council shall provide by law for organizing and disciplining the militia of this Nation, in such manner as they shall deem expedient, not incompatible with the Constitution, Treaties and Laws of the United States, in relation thereto.

Sec. 2.--Officers of the Militia shall be elected or appointed in such manner as the General Council shall from time to time direct, and shall be commissioned by the Principal Chief.

Sec. 3.--The Principal Chief shall have power to call forth the militia to execute the laws of the Nation, to suppress insurrections and repel invasions.

ARTICLE IX.

Mode of Amending and Revising the Constitution.

Sec. 1.--Whenever a majority of the members of the General Council assembled shall deem it necessary, they may propose an amendment or amendments to this Constitution; which amendment shall be submitted by the National Secretary, at least four months preceding the next regular election, at which the qualified voters shall vote directly for and against such proposed amendment, or amendments; and if it shall appear that a majority of the qualified voters shall have voted in favor of such amendment or amendments, then the same may be incorporated as a part of this Constitution at the next succeeding General Council.

Sec. 2.--And if at any time two-thirds of the Senate and the House of Representatives shall think it necessary to revise and change this entire Constitution, they shall recommend to the electors, at the next election for members of the General Council, to vote for or against the Convention, and it shall appear that a majority of the electors voting at such election, have voted in favor of calling a Convention, the General Council shall, at its next session, provide by law for calling a Convention, to be holden within six months after the passage of such law; and such Convention shall consist of Delegates equal to the number of members in the House of Representatives of the General Council.

SCHEDULE.

Sec. 1.--All matters now pending in the several courts of this Nation, shall be transferred to such courts as may have proper jurisdiction thereof under this Constitution.

Sec. 2.--All rights, prosecutions, claims on contracts, as well of individuals as bodies corporate, and laws now in force at the time of the adoption of this Constitution, and not inconsistent therewith, until altered or repealed by the General Council, shall remain in full force.

Sec. 3.--Any special appointments or contracts heretofore made and approved under existing laws or resolutions of the General Council, shall be approved by the Principal Chief of this Nation, and the appointees commissioned, and contracts so made ratified by him.

Sec. 4.--In order that no inconvenience may result to the public service, from the taking effect of this Constitution, no office shall be suspended, nor any laws relative to the duties thereof be changed or abrogated, until the officers elected and appointed under this Constitution shall be duly qualified and enter upon their respective duties.

Sec. 5.--Immediately after the governor of this Nation shall make proclamation that this Constitution is ratified by the people, then it shall be the duty of the President of this Convention to give notice forthwith to all the Probate Judges in this Nation, directing them to hold an election on the first Wednesday in August, A.D. 1860, for a Principal Chief and all other officers, district and county, provided for in this Constitution, to be conducted in the manner prescribed by the existing election laws; should there be any vacancy, however, in the office of Probate Judge, then it shall be the duty of any of the county officers to order the said elections.

Sec. 6.--The returns for the elections above directed shall be sent sealed to the President of this Convention, who shall open and publish the same, giving certificates to those whom the returns show to be chosen for the various officers; the returns for Principal Chief shall be transmitted as the Constitution directs.

Sec. 7.--The President of this Convention shall call to his assistance two or more competent persons to aid him in making out the returns of the said elections.

Sec. 8.--In the event the President of this Convention should die, then the returns of the elections for Principal Chief and other officers, shall be transmitted to the National Secretary, who shall proceed as in manner above directed.

Sec. 9.--Until apportionment shall be made by law, in pursuance of this Constitution, for the election of Senators, the counties of three Districts, singly and severally, shall elect a Senator or Senators for members to the General council as follows:

In Apukshanubbee District.

Towson County, - - - - - One Senator.
Cedar County,}
Wade County, } - - - - - One Senator.
Red River County,}
Boktucklo County,} - - - - One Senator.
Eagle County, }
Nashoba County. } - - - - - One Senator.

In Pushmataha District.

Kiamichi County, - - - - - One Senator.
Blue County, - - - - - - One Senator.
Atoka County, - - - - - One Senator.
Jack's Fork County, - - - - One Senator.

In Mosholatubbee District.

Sugar-Loaf County, - - - - - - One Senator.
Skullyville County, - - - - - One Senator.
Sans Bois County, - - - - - - One Senator.
Gaines County,)
Tobucksy County,) - - - - - - One Senator.

Sec. 10.--The first election for members to the House of Representatives, under this Constitution, shall consist of a number of members equal to the apportionment under the existing laws.

GEORGE HUDSON,
President of the Convention.

W. A. Dibrell, Clerk.

Delegates of the Convention:

FORBIS LEFLORE,
L. P. PITCHLYNN,
ELLIS W. FOLSOM,
WM. McCOY,
JOSEPH DUKES,
WM. S. PATTON,
EDMOND GARDNER,
JOSEPH P. FOLSOM,
JOHN PICKEN (his + mark)
STEPHEN HOLSON,
S. P. WILLIS,
ALFRED SHONG,
PLINY FISK,
SIMON CONKLIL,
PISTAMBEE,
PETER WATSON (his + mark),
DANIEL MILLER,
ADAM NAIL,
DAVIS KING.

NOTE: This is an exact copy of the Choctaw Constitution of 1860 as printed in 1869 by Joseph P. Folsom in *Constitution and Laws of the Choctaw Nation*. No attempt has been made to edit it or to correct the few typographical errors found in the original. For some reason, Article IV deals with the Judicial Department and Article V with the Executive Department; the reverse order was true of earlier Choctaw constitutions.

CHIEFS OF THE CHOCTAW NATION
1802-1977
as
Compiled
by
Muriel H. Wright

I. District Chiefs, 1802-1834
(In Mississippi and during Removal to Oklahoma)

A. Northwest District. Also known as "Upper Towns" or "Okla Falaya" (long people).

1802-1824: Apukshunnubbee
1825-1826: Robert Cole
1826-1830: Greenwood Leflore (nephew of Cole?)
(1830- ? : *George W. Harkins (nephew of Greenwood Leflore)
Removal (? -1834: Thomas Leflore (cousin? of Greenwood)

*Elected but never recognized by U. S.

B. Northeast District. Also known as "Lower Towns" or "Haiyip Tuklo" (two lakes) or "ahe ʋpat" (potato-eating) people.

? -1809: Hoomastubbee
1809-1826: Mushulatubbee (son of Hoomastubbee)
1826-1830: David Folsom (uncle of Mushulatubbee?)
Removal 1830-1834: Mushulatubbee (died 1838)

C. South District. Also known as "Okla Hannali" (Six Towns people).

1803-1824: Pushmataha
1824 : Oklahoma (nephew of Pushmataha)
1824-1828: General Humming Bird
1826 : *Samuel Garland /_1826 Constitution signed by "Tʋpenahumma" _7
Removal 1828-1838: Nitakechi (nephew of Pushmataha)

*Elected in 1826 but refused recognition as chief by both Humming Bird and Nitakechi.

II. District Chiefs, 1834-1857
(In Oklahoma)

A. Apukshunnubbee District. Known for a short while as either "Oklafalaya" or "Red River" district.

*1834-1838: Thomas Leflore
1838-1844: James Fletcher
1844-1850: Thomas Leflore (d. 1850)
1850-1857: George W. Harkins

*Terms began in the same year that elections were held.

B. Mushulatubbee District.

1834-1838: Joseph Kincaid
1838-1842: John McKinney
1842-1846: Nathaniel Folsom
1846-1850: Peter Folsom
1850-1854: Cornelius McCurtain (father of Jackson, Edmund, and Green McCurtain)
1854-1857: David McCoy (MHW lists Peter Folsom)

C. Pushmataha District.

1834-1838: Nitakechi
1838-1841: Pierre Juzan (d. 1841)
1841-1844: Isaac Folsom
1844-1846: Nitakechi (d. 1846)
1846-1850: Silas D. Fisher
1850-1854: George Folsom
1854-1857: Nicholas Cochnauer

D. *Chickasaw District, 1837-1855.

1837-1844: George Colbert
1844-1846: Isaac Alberson
1846-1850: James McLaughlin
1850-1855: Jackson Frazier

*In 1837 the Chickasaws joined the Choctaws in Oklahoma as a fourth district. In 1855 they separated themselves from the Choctaw Nation and organized an independent government.

III. *Governors, 1857-1860

1857-1858: Alfred Wade (resigned, 1858)
1858-1859: Tandy Walker (Speaker of House who completed Wade's term)
1859-1860: Basil Leflore

*The Constitution of 1857, written at Skullyville, replaced the three district chiefs with a single governor. Because civil war threatened, a compromise was reached in 1860 which retained the district chiefs, but only as officials subordinate to a principal chief.

IV. Principal Chiefs, 1860-1977

A. Elected, 1860-1906

1860-1862: George Hudson
1862-1864: Samuel Garland
1864-1866: Peter P. Pitchlynn
1866-1870: Allen Wright
1870-1874: William Bryant

1874-1878: Coleman Cole
1878-1880: Isaac Garvin
1880-1884: Jackson McCurtain
1884-1886: Edmund McCurtain
1886-1888: Thompson McKinney
1888-1890: Benjamin F. Smallwood
1890-1894: Wilson N. Jones
1894-1896: Jefferson Gardner
1896-1900: Green McCurtain
1900-1902: Gilbert W. Dukes
1902-1906: Green McCurtain

B. Appointed, 1906-1977

1906-1910: Green McCurtain (d. 1910)
1911-1918: Victor M. Locke, Jr.
1918-1922: William F. Semple
1922-1929: William H. Harrison
1930-1937: Ben Dwight
1937-1948: William A. Durant
1948-1975: Harry J. W. Belvin
1975- : David Gardner

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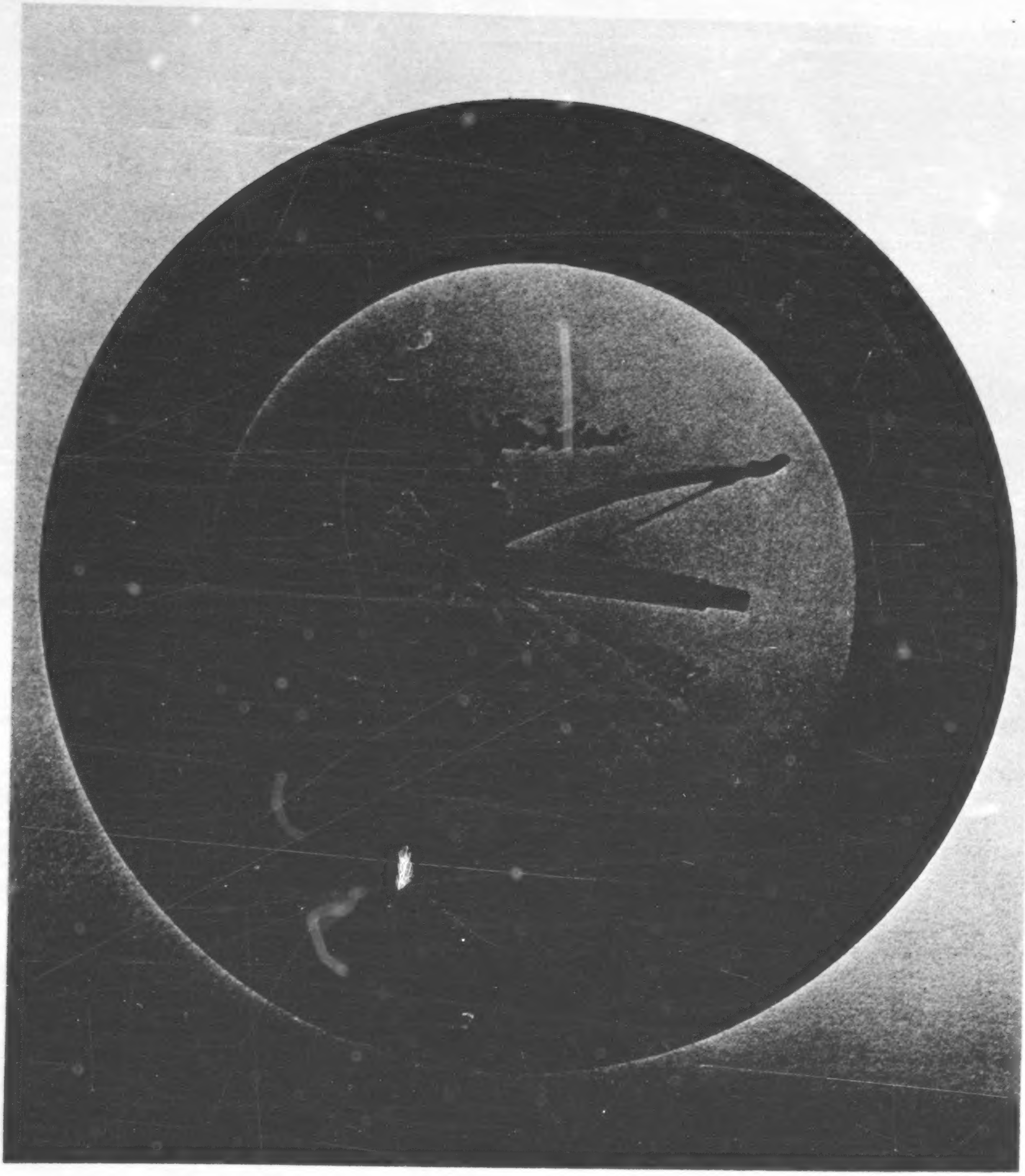
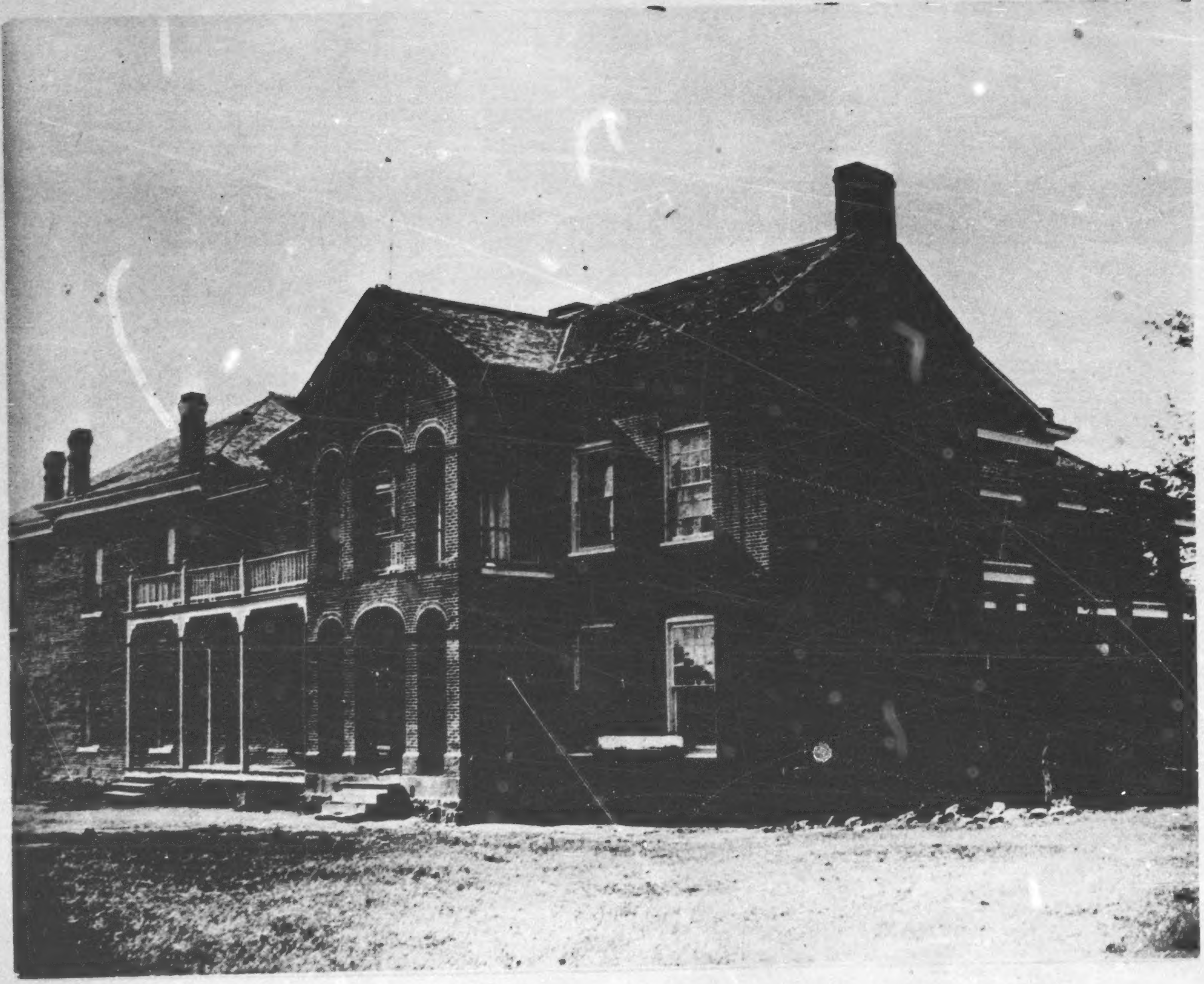
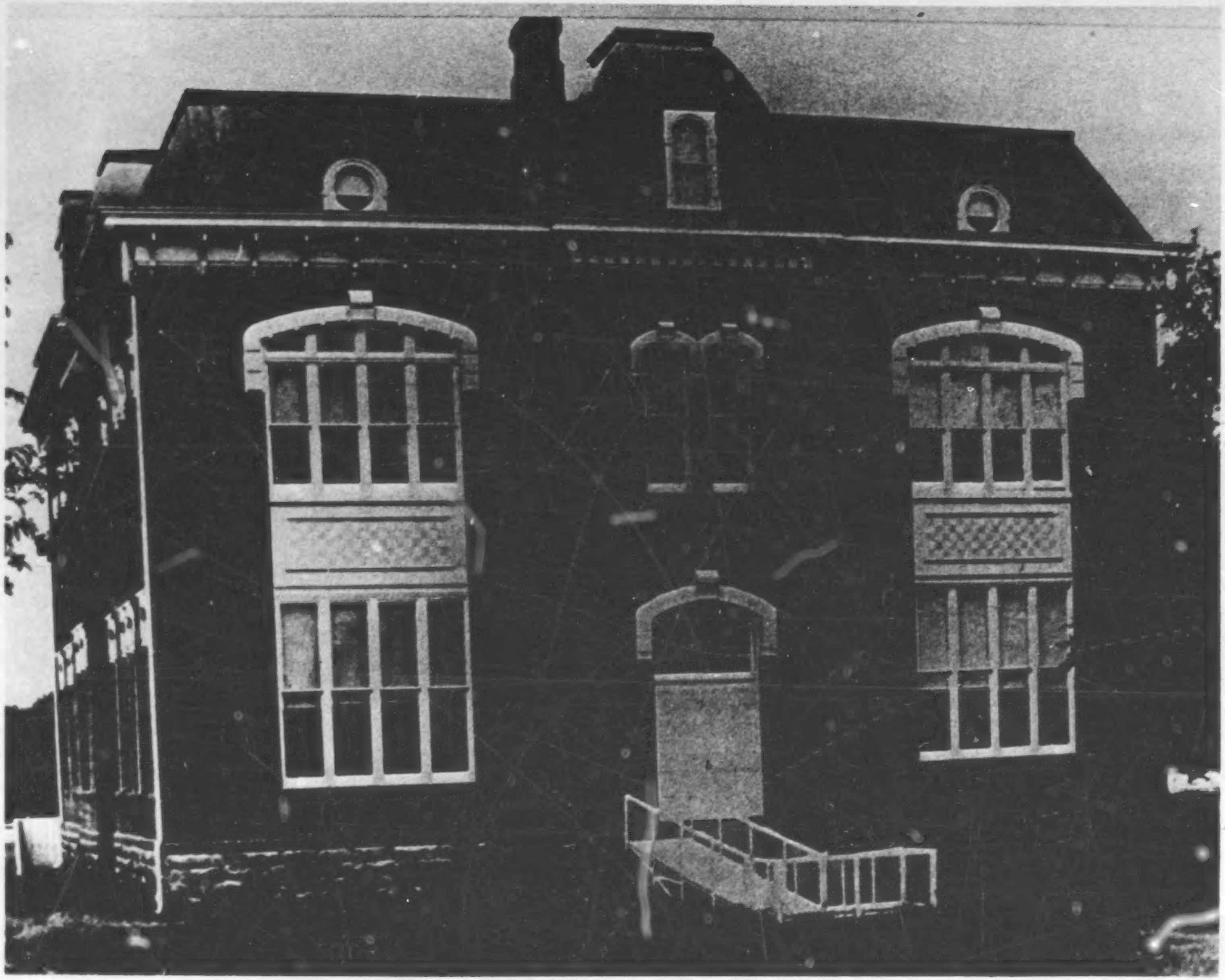


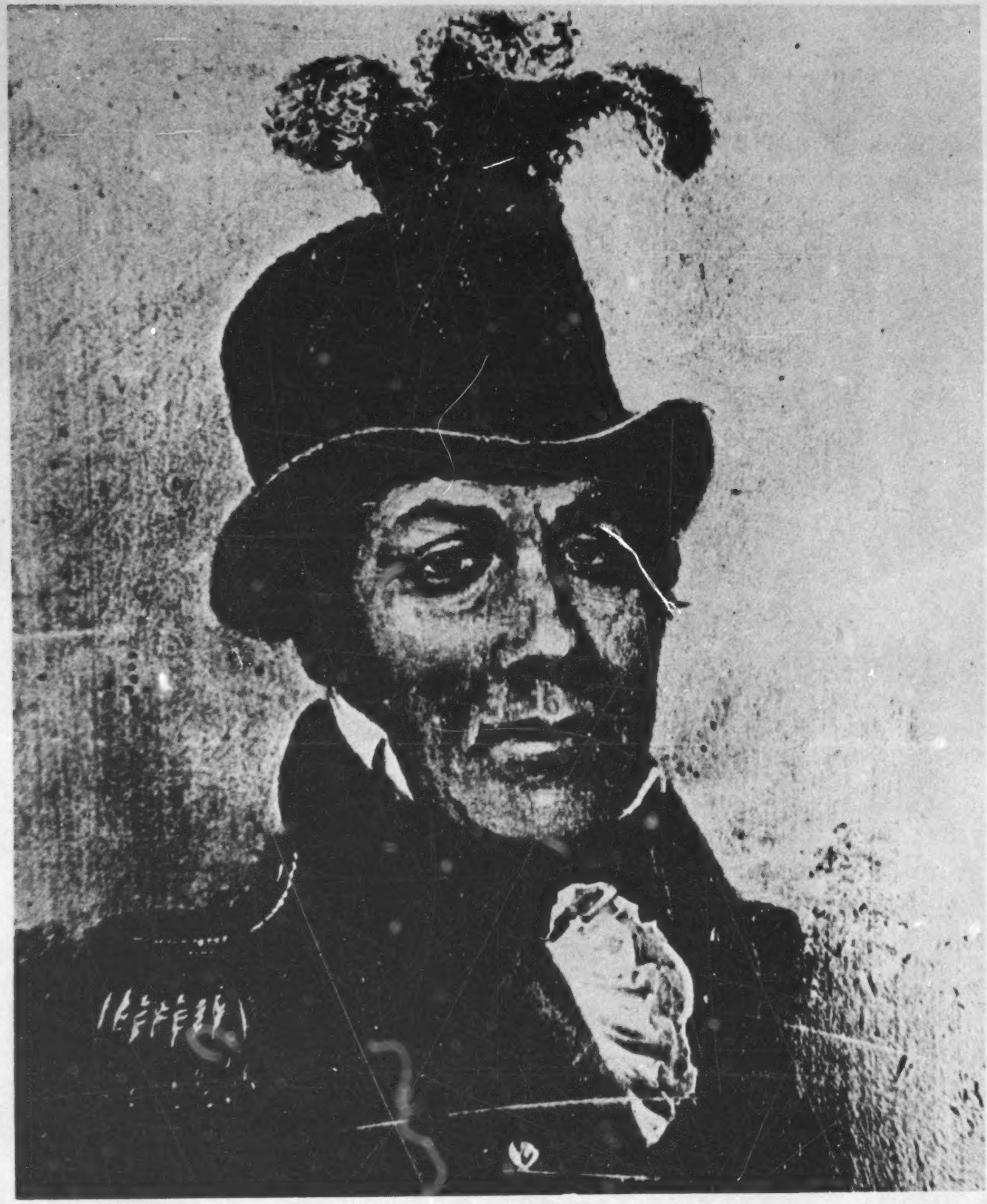
Official seal of the Choctaw Nation. This appeared on all Choctaw governmental papers from 1860 until Oklahoma statehood in 1907. The pipe-hatchet symbolizes peace, while the unstrung bow and three arrows--one for each of the three ancient Choctaw districts--represents preparedness for defense. Courtesy Oklahoma Historical Society.



Armstrong Academy. Constructed in 1858 to house a boarding school for boys, this building served as the capitol for the Choctaw Nation, 1863-1883. The resulting village was known as Chahta Tamaha (Choctaw Town). Noted chiefs serving here included Peter P. Pitchlynn, Allen Wright, and Jackson McCurtain. Fire destroyed the structure in 1921. Courtesy Oklahoma Historical Society.

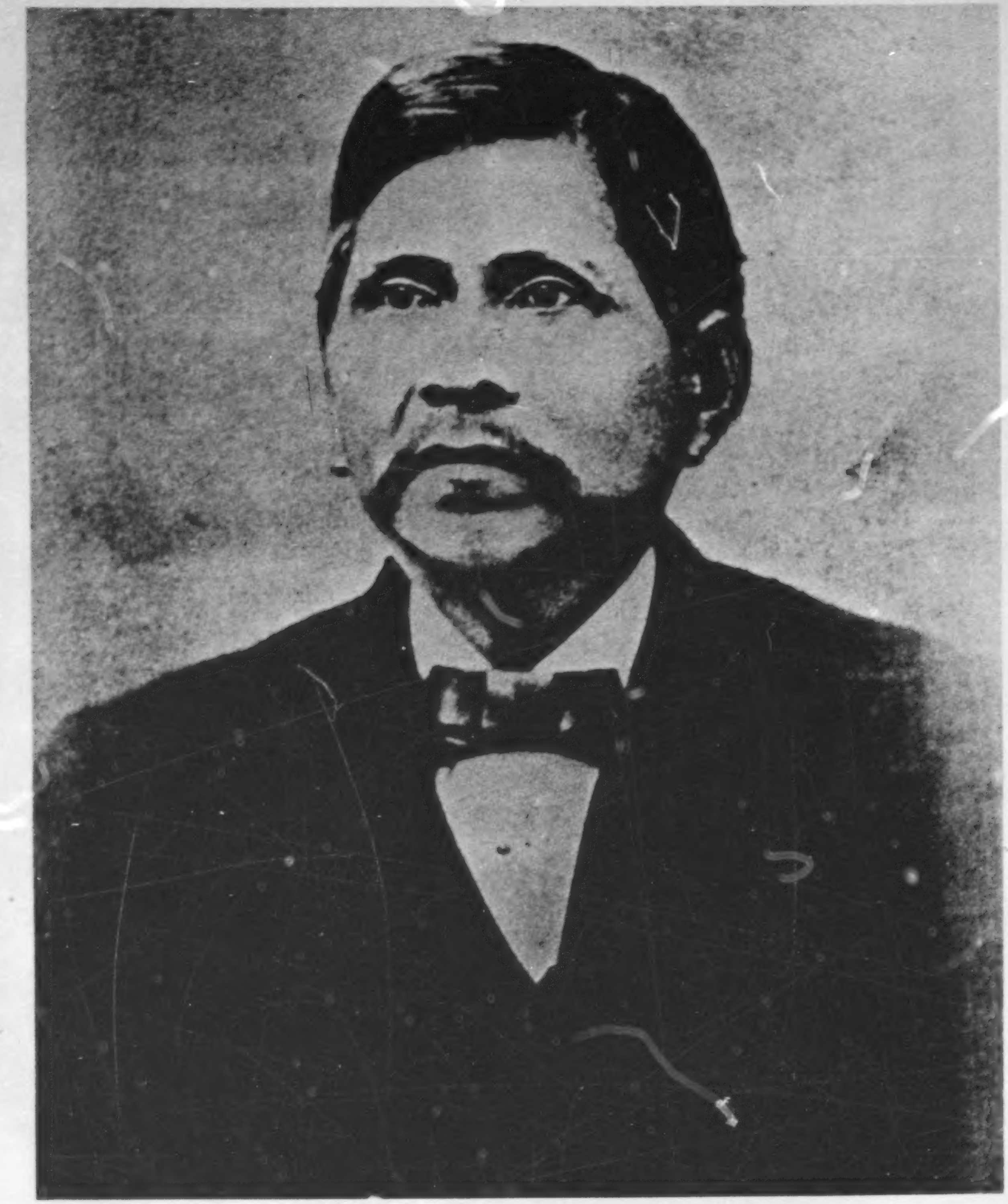


Tuskahoma Council House. Last Choctaw capitol, completed in 1884, this building still stands as a monument to constitutional government in the Choctaw Nation. It is within two hundred feet of the site of the Nanih Waya Council House, a frame structure completed by the Choctaw Nation in 1838 as their first governmental building after removal from Mississippi.

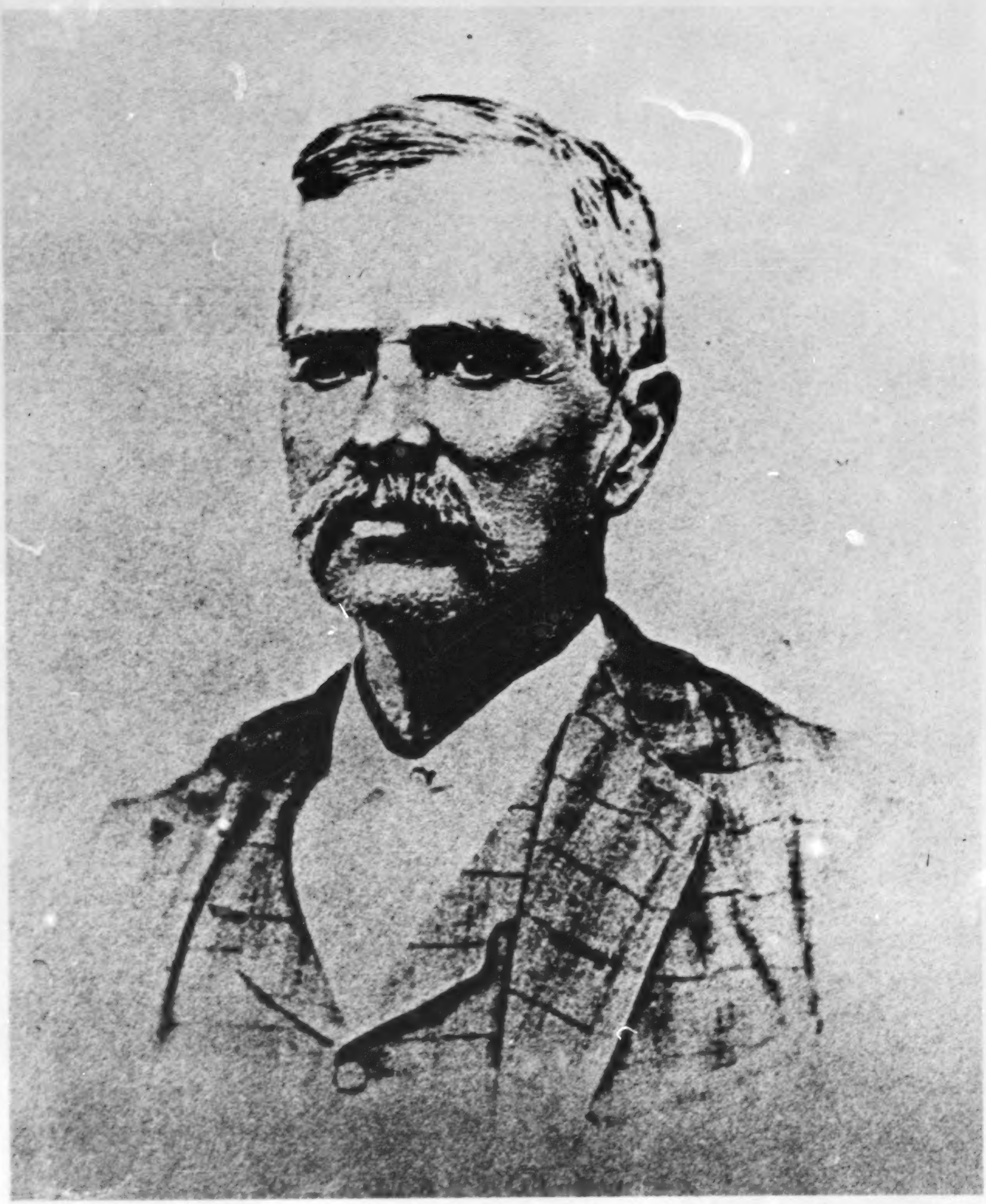


Pushmataha (1764?-1824), chief of the Southern or Six Towns District of the Choctaw Nation east of the Mississippi. A friend of Andrew Jackson's, he fought against the Creeks during the War of 1812. Just before his death in Washington in 1824, Pushmataha was quoted as saying that no Choctaw "ever drew bow against the United States." He is buried in the Congressional Cemetery, Washington, D.C. Courtesy Oklahoma Historical Society.

Peter P. Pitchlynn (1806-1881), principal chief of the Choctaw Nation, 1864-1866. His part in building an effective constitutional government for the Choctaw Nation, between 1826 and 1860, was as great--perhaps greater--as that of any Choctaw leader of the time. He is buried in the Congressional Cemetery, Washington, D.C. Courtesy Oklahoma Historical Society.



Allen Wright (1826-1885), principal chief of the Choctaw Nation, 1866-1870, had more formal education than any other chief under the Choctaw constitution of 1860. A graduate of Union College (1852) and Union Theological Seminary (1855), he has been called "preeminently the scholar of his tribe." Courtesy Oklahoma Historical Society.



Wilson N. Jones (1827?-1901), principal chief of the Choctaw Nation, 1890-1894. If Allen Wright was "preeminently the scholar" as Choctaw chief, surely Wilson N. Jones was "preeminently the business man." Although he received little formal education himself, his administration was marked by the advancement made in educational facilities among the Choctaws.